

# City Council Work Session

Tuesday, February 19, 2013

6:00 p.m.

Council Chambers – Rouss City Hall

## AGENDA

### 1.0 Call to Order

**2.0 Public Comments:** (Each person will be allowed 3 minutes to address Council with a maximum of 10 minutes allowed for everyone.)

**3.0 Annual Presentation by the Economic Development Commission –**  
Patrick Barker (pages 3-9)

### 4.0 Items for Discussion:

**4.1 R-2013-05:** Resolution – Authorization to apply for a Virginia Department of Criminal Justice Services grant to support the purchase of equipment and services – Kevin Sanzenbacher (pages 10-12)

**4.2 R-2013-06:** Resolution – Approval of the nomination of Lorrie Rhoton to be appointed to the Local Emergency Planning Committee representing the American Red Cross – Lynn Miller (pages 13-16)

**4.3 R-2013-09:** Resolution – Express appreciation to Hanover County Emergency Communications and Fire & Rescue Departments personnel for assistance in reviewing an 800 Mhz trunked radio system – Lynn Miller (pages 17-19)

**4.4 O-2013-06:** AN ORDINANCE TO AUTHORIZE THE MANAGER TO EXECUTE A LETTER OF AGREEMENT WITH SHENANDOAH PERSONAL COMMUNICATIONS COMPANY (“SHENTEL”) FOR THE TEMPORARY USE OF CITY PROPERTY FOR THE PURPOSE OF ERECTING A MOBILE TELECOMMUNICATIONS FACILITY – CELL ON WHEELS (“COW”) ON PROPERTY OWNED BY THE CITY OF WINCHESTER AT THE SOUTH END OF THE TIMBROOK ANNEX DURING THE 2013 APPLE BLOSSOM FESTIVAL – Lynn Miller (pages 20-34)

**4.5 R-2013-07:** Resolution – Approval of a refund in the amount of \$3125.31 to Sky White LLC for overpayment of Business Tangible Personal Property Taxes – Ann Burkholder (pages 35-38)

**4.6 O-2013-03:** AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-66 OF THE WINCHESTER CITY CODE PERTAINING TO INSTALLATION; REQUIRED LEGEND AND SIGNALS – Samantha Anderson (pages 39-42)

**4.7 O-2013-04:** AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-68 OF THE WINCHESTER CITY CODE PERTAINING TO WHEN METERS SHALL BE OPERATED – Samantha Anderson (pages 43-46)

**4.8 R-2013-08:** Resolution – Authorization to develop a detailed proposal for a Stormwater Utility for City Council’s consideration and possible action – Perry Eisenach (pages 47-81)

**4.9** Motion to provide a preliminary approval of the proposed FY14 operating budget for the Opequon Water Reclamation Facility – Perry Eisenach (pages 82-87)

**4.10 R-2013-10:** Resolution – Approval to amend the Frederick-Winchester Service Authority Articles of Incorporation Regarding Compensation – Perry Eisenach (pages 88-94)

## **5.0 Report of Liaisons**

## **6.0 Monthly Reports**

**6.1** Fire & Rescue Department (page 95)

**6.2** Police Department (page 96)

## **7.0 Adjourn**

# CITY OF WINCHESTER, VIRGINIA

## PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 2/19/2013

CUT OFF DATE: 2/5/2013

RESOLUTION    ORDINANCE    PUBLIC HEARING (PRESENTATION) XX

**ITEM TITLE:** ANNUAL PRESENTATION BY THE EDC

**STAFF RECOMMENDATION:** Approval recommended by the Economic Redevelopment Director

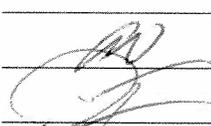
**PUBLIC NOTICE AND HEARING:** N/A

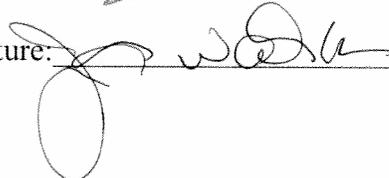
**ADVISORY BOARD RECOMMENDATION:** N/A

**FUNDING DATA:** N/A

**INSURANCE:** N/A

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6. City Attorney		_____	2/4/2013
7. City Manager		_____	2-5-13

Initiating Department Director's Signature:  \_\_\_\_\_ Date: 2/5/13



**APPROVED AS TO FORM:**

 2/4/2013  
CITY ATTORNEY



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](http://www.winchesterva.gov)

**To: City Council**

**From: Jim Deskins, Director of Economic Redevelopment**

**Subj: EDC annual presentation**

**Date: 2/5/2013**

**Background:**

The EDC presents annually to Council a report of their activities during the past fiscal year.

**Current Situation:**

A power point presentation will be made by Patrick Barker at the 2/19/2013 work session.

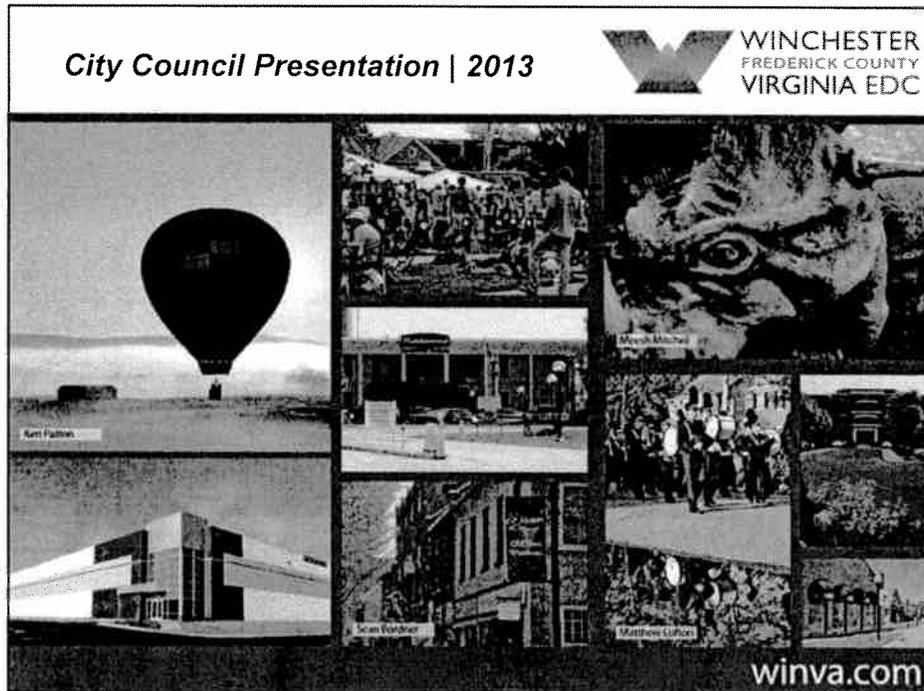
**Recommendation:**

N/A

**Fiscal/Policy Recommendation**

N/A

2/19



**EDC History & Background**

WINCHESTER  
FREDERICK COUNTY  
VIRGINIA EDC

- Formed in 1982 by the City and the County
- Purpose was to "foster an efficient and cooperative effort towards establishing economic development goals and strategies to meet these goals for the Winchester-Frederick County area."
- Part of the MOU between city and county on various joint areas of cooperation
  - Economic development was viewed as an integral part of the success of both entities
  - Funding proposed by population
- True joint leadership in organization

winva.com

***EDC Net Revenue &  
Economic Generator***



- Quantitative Impacts Last 3 Years (FY 10 – FY12)
  - Capital Investment = \$116.6 million
    - Announced projects include
      - Rubbermaid | Treatment Dairies | O’Sullivan | Trex | Ashworth Brothers | National Fruit | Fabritek
    - Infrastructure = \$4,984,500 | Monticello Extension
      - Rubbermaid Project
  - New Jobs = 540
  - Retrained Jobs = 538
  - Net return FY09 – FY11: 246%
  - Net absolute return FY09 – FY11: \$1.04 million

winva.com

***EDC Economic Generator***



- Qualitative Impacts Last 3 years
  - Business Call Team Visits to City Businesses | 71
  - City businesses participating in Career Awareness Tours (CAT) | 27
  - City school students participating in CAT | 185
  - City teachers/Guidance counselors participating in CAT | 40
    - Note | program shifted to in-service days

winva.com

***EDC Assisting the City  
achieve its goals***



WINCHESTER  
FREDERICK COUNTY  
VIRGINIA EDC

- Increased income wealth of its citizens
  - Targeting high paying businesses that offer above average wages of City (\$42,930)
  - Training assistance leveraged through projects = \$2.04M (FY07 – FY12)
- Increased educational attainment & vocational activity
  - Career Awareness Program
    - Student/Teacher/Guid., Counselor Tours
    - VIP Tours

winva.com

***EDC Assisting the City  
achieve its goals***



WINCHESTER  
FREDERICK COUNTY  
VIRGINIA EDC

- Increased educational attainment & vocational activity | Student/Teacher Tours (2000)
  - 3 Year Average: 460 students (132% increase)
    - 4,336 total
  - 3 Year Average: 131 teachers (162% increase)
    - 971 total
  - Positive shift in student perception on local careers
    - Quality careers 88% (+44)

winva.com

***EDC Assisting the City  
achieve its goals***



- Increased educational attainment & vocational activity | VIP Tours (2003)
  - 3 Year Average: 73 (69.8% increase)
    - 971 total
    - 100% recommend to peers
    - 92% clear understanding of skills
- Increased educational attainment & vocational activity | Others
  - Business Showcase: 2009
  - Future Force: 2010

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***EDC Assisting the City  
achieve its goals***



- Increased mixed use walk-able community concept
  - Small business growth strong potential to part of this concept
    - EDC, on behalf of City and County, funds Lord Fairfax Small Business Development Center, which yields outstanding returns (\$17.53 to \$1 – 2011)
  - Targeted business sectors/Proactive Marketing very interchangeable with this concept
    - Business services, life sciences, etc
    - 250 companies in mid game sequence
    - 150+ regional/state client sources in mid game

[winva.com](http://winva.com)

***EDC Assisting the City  
achieve its goals***



- Proactive Marketing (samples)
  - Trade Shows
    - Medical Design & Manufacturing *\*completed*
    - MedTrade *\*upcoming*
    - Medical Device Summit *\*upcoming*
  - Marketing Mission (Direct Mail)
    - Illinois/Wisconsin *\*completed*
    - Southern California *\*upcoming*
  - Site Selectors/Corporate Real Estate
    - Tenant Rep Mailing-TR & CRE
    - VEDP

[winva.com](http://winva.com)

***Final Thoughts***



- EDC is proud its model
  - Generates a high level of results
  - Earned National and international honors for their innovation and advancement
- Remain open to additional duties
  - Currently evaluating the City's Economic Development Analysis & Master Plan on where the EDC can assist.
- More frequent communication
  - EDA and EDC meeting regularly to update each other on activities and discover partnership opportunities

[winva.com](http://winva.com)

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2/12/13 CUT OFF DATE: 1/21/13

RESOLUTION XX ORDINANCE \_\_\_ PUBLIC HEARING \_\_\_

ITEM TITLE: Resolution allow the WPD to seek grant funding for a new SWAT van

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

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<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Director of Finance	B		1-18-13
2. _____			
3. _____			
4. _____			
5. City Attorney	[Signature]		1/23/2013
6. City Manager	[Signature]		1-23-13
7. Clerk of Council			

Initiating Department Director's Signature: [Signature] Date: 1/18/13



APPROVED AS TO FORM: [Signature] 1/23/2013 CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Chief Kevin L. Sanzenbacher   
**Date:** January 18, 2013  
**Re:** Grant opportunity

THE ISSUE:

The Winchester Police Department currently has a 1995 SWAT van that was purchased, used, in 2005 and has over 115,000 miles on it. This van was originally a delivery truck and was never modified for full police service as a SWAT vehicle. It has no secure storage for equipment or other officer safety devices. This van also has numerous mechanical issues due to age. The WPD would like to replace this van with one specifically designed for SWAT operations. The Virginia Department of Criminal Justice Services has a grant that may be used to purchase a replacement vehicle. The WPD is seeking permission from the Council to apply for this grant

BACKGROUND:

The WPD has a 14 member SWAT team that must be available immediately for calls for barricaded subjects and high risk warrant services. The SWAT team is called out to assist in the City and surrounding jurisdictions. The van is used to transport the team to the scene as a group and to store their various weapons and protection systems. On high risk warrant situations the van is frequently used to pull directly in front of a target location to deliver officers and maintain the element of surprise. Due to brake issues the current van requires two officers to chock the tires before they can deploy. The team needs a reliable vehicle.

The City has been unable to replace this van through operating funds due to the economic downturn. All current funds allocated for vehicles must go to replenish the regular fleet. To purchase a SWAT van new would absorb almost 30% of our annual budget for vehicles.

BUDGET IMPACT:

The grant being offered is for \$35,000 and requires a 10% (\$3,500) local match. If the grant were approved by DCJS the Department would allocate the matching City portion of the grant from FY 14 operating funds for vehicle purchases to meet this match.

OPTIONS:

This grant will not become available until July 1, 2013. If the match funding cannot be found in the FY 14 budget the City can turn down the grant if offered. Alternatively the department can continue to seek additional funding from the City operating budget to provide the entire amount of the purchase.

RECOMMENDATIONS:

The WPD recommends that the Common Council allow us to pursue this grant.

**A RESOLUTION TO AUTHORIZE THE WINCHESTER  
POLICE DEPARTMENT TO APPLY FOR A VIRGINIA  
DEPARTMENT OF CRIMINAL JUSTICE SERVICES  
GRANT**

**WHEREAS**, the Winchester Police Department is striving to be one of the best police agencies in the country; and

**WHEREAS**, the City recognizes the importance of having a well equipped police force; and

**WHEREAS**, the Virginia Department of Criminal Justice Systems has grant funding available in the amount of \$35,000 that may be available to the City; and

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

**NOW THEREFORE BE IT RESOLVED**, that the Common Council of the City of Winchester, Virginia hereby authorizes the Winchester Police Department to apply for a Virginia Department of Criminal Justice Services grant to support the Department's purchase of equipment and services and authorizes the City Manager to execute these transactions.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: <sup>2-19</sup>1-22.2013 CUT OFF DATE: \_\_\_\_\_

RESOLUTION   x   ORDINANCE      PUBLIC HEARING     

ITEM TITLE: Local Emergency Planning Committee (LEPC) Nomination

STAFF RECOMMENDATION: Approve the nomination of Lorrie Rhoton representing the American Red Cross to the Virginia Emergency Response Council (VERC) for appointment to the LEPC

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

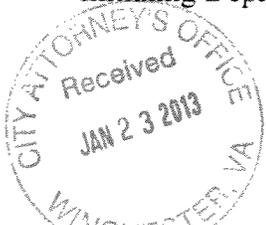
FUNDING DATA: No Impact

INSURANCE: N/A

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1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>[Signature]</i>	_____	1/24/2013
6. City Manager	<i>[Signature]</i>	_____	_____
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* Date: 1-7-2013



Revised: October 23, 2009



APPROVED AS TO FORM:

*[Signature]* 1/24/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** L. A. Miller  
**Date:** January 7, 2013  
**Re:** Nomination to Local Emergency Planning Committee

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**THE ISSUE:** Nomination Local Emergency Planning Committee (LEPC)

**RELATIONSHIP TO STRATEGIC PLAN:** Public Safety Issue with regard to compliance with Superfund Amendment and Re-Authorization Act, Title III (SARA-Title III)

**BACKGROUND:** As prescribed by the SARA-Title III program each jurisdiction shall have a LEPC to address the storage and use of Hazardous and Extremely Hazardous Materials in the jurisdiction which meet the threshold planning quantities. The LEPC is responsible for the receipt and Tier II information pertaining to the materials and the distribution of the information as prescribed through public information. The jurisdiction recommends/nominates individuals to serve on the LEPC to the Virginia Emergency Response Council (VERC). The VERC actually appoints the individuals to the LEPC. There is no term length for service on the LEPC.

**BUDGET IMPACT:** N/A

**OPTIONS:** Approve or Disapprove the Nomination

**RECOMMENDATIONS:** Approve the nomination



**American  
Red Cross**

**Top of Virginia Chapter  
Shenandoah Chapter**  
561 Fortress Drive  
Winchester, Virginia 22603  
(540) 662-5412

September 17, 2012

Winchester/Frederick County LEPC  
Attn: Tim Ray, Chairman  
231 E. Piccadilly St., #330  
Winchester, VA 22601

Dear Tim Ray:

The American Red Cross Top of Virginia Chapter is committed to working with all of the LEPCs in our area. The Red Cross is here to serve the community and involvement with the LEPC is a natural outgrowth of our work here and we are honored to be a part.

Our position on the LEPC has been filled by several people in the past, as you may know. Lorrie Rhoton is our Disaster Services Program Manager and is intimately familiar with what the Red Cross response would be in an emergency.

We would request that Ms. Lorrie Rhoton be nominated to the Winchester/Frederick County LEPC to represent The American Red Cross Top of Virginia Chapter.

Thank you very much and bless you in your work.

Sincerely,

Chris Scott  
Executive Director

Board of Directors  
*Edison McDaniels  
Chapter Chairman*  
*Marci Carter  
Vice-Chairman*  
*Shonda Lewis  
Secretary*  
  
Board Members  
*Michelle Harris  
Edison McDaniels III  
Courtlin Pifer  
Scott Shoemaker  
Morgan Templar  
Marci Carter  
Justin Ritenour  
Shonda Lewis*  
  
Staff  
*Chris Scott  
Executive Director*  
*Lorrie Rhoton  
Program Manager*  
*Kathy Trenum  
Development  
Coordinator*

Tax ID No 53-0196605

This letter serves as your receipt. Please note in accordance with IRS regulations no goods or services were provided donor by the American Red Cross in exchange for this contribution.

RECEIVED SEP 20 2012

**A RESOLUTION TO APPROVE NOMINATE LORRIE RHOTON  
TO THE LOCAL EMERGENCY PLANNING COMMITTEE  
REPRESENTING THE AMERICAN RED CROSS**

**WHEREAS**, the City of Winchester supports Public Safety efforts throughout the community; and

**WHEREAS**, an element of this program is the establishment and maintain the Local Emergency Planning Committee, (LEPC) as prescribed by the Superfund Amendment and Re-Authorization Act, Title III (SARA-Title III); and

**WHEREAS**, the City has the responsibility to nominate representatives to the Virginia Emergency Response Council, (VERC); and

**WHEREAS**, VERC has the responsibility to appoint the representatives to the LEPC; and

**WHEREAS**, the American Red Cross desires to have Ms. Lorrie Rhoton nominated and appointed to the LEPC.

**NOW THEREFORE, BE IT RESOLVED** that the Common Council of the City of Winchester, Virginia hereby nominates Mr. Lorrie Rhoton for appointment to the Local Emergency Planning Committee.

B-2013-09

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

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

RESOLUTION X ORDINANCE \_\_\_ PUBLIC HEARING \_\_\_

ITEM TITLE: Resolutions of Appreciation to Hanover County Emergency Communication Center and Hanover County Fire & Rescue Department

STAFF RECOMMENDATION: Recommend City Council authorize the clerk to prepare certified resolutions for Hanover County Emergency Communications Center and the Hanover County Fire & Rescue Department

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

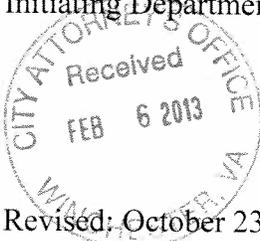
FUNDING DATA: N/A

INSURANCE: N/A

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1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>[Signature]</i>	_____	<i>2/6/2013</i>
6. City Manager	<i>[Signature]</i>	_____	<i>2-9-13</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* Date: *2-6-13*



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

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** L A Miller, Emergency Management Coordinator  
**Date:** February 6, 2013  
**Re:** Resolution of Appreciation



**THE ISSUE:** Issue resolutions of appreciation to Hanover County Emergency Communications Center and Hanover County Fire & Rescue Department for assisting the city in the review of an 800 Mhz trunked radio system

**RELATIONSHIP TO STRATEGIC PLAN:** Development of a High Performing Organization

**BACKGROUND:** Hanover County Emergency Communications and Fire & Rescue Departments aided personnel of the City of Winchester in the evaluation of an 800 Mhz trunked radio system similar in nature to that designed and subsequently authorized by City Council for purchase and installation within the City. Hanover County personnel provided insight into the system through practical hands on testing and display within the Emergency Communications Center and facilities located at the Fire & Rescue Training Center. Hands on utilization and testing of the 800 Mhz coupled with comparison testing of VHF spectrum equipment assured city personnel of the viability of the 800 Mhz trunked system and applicability for the city.

**BUDGET IMPACT:** N/A

**OPTIONS:** Endorse resolution and authorize clerk to prepare a certified resolution

Disapprove issuance of resolution

Defer action

**RECOMMENDATIONS:** Staff recommendation is to approve resolution and authorize clerk to prepare a certified resolutions for Hanover County Emergency Communication and Hanover County Fire & Rescue Department.

## RESOLUTION

**WHEREAS**, the City of Winchester had embarked on a comprehensive project to improve Emergency Communications within the city; and

**WHEREAS**, the City of Winchester determined that the availability of sufficient VHF radio spectrum frequencies were not available for licensing through the Federal Communications Commission; and

**WHEREAS**, the findings of the city identified that a transition to the 800 Mhz spectrum utilizing a trunked radio system was in the best interest of the communications project; and

**WHEREAS**, the City personnel were not familiar with the operations of an 800 Mhz trunked radio system; and

**WHEREAS**, Hanover County, Virginia is utilizing a trunked 800 Mhz system with great success a request for assistance in the form of a visitation and review of the system was initiated; and

**WHEREAS**, Hanover County's Emergency Communications initiated an invitation to visit the center and offered assistance in reviewing the system and its functionality to City staff; and

**WHEREAS**, City staff visited Hanover County and had the opportunity to review the system in full operation; and

**WHEREAS**, Hanover County's staff was professional, knowledgeable and cordial during the visit assisting City staff to gain and understanding of the trunked radio system.

**NOW THEREFORE BE IT RESOLVED**, that the members of the Common Council join with members of City staff to express our sincere appreciation for the assistance provided by Hanover County's Emergency Communications Center personnel, and

**BE IT FURTHER RESOLVED**, that the City of Winchester stands prepared to reciprocate to Hanover County should the opportunity present.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

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

RESOLUTION \_\_\_ ORDINANCE X PUBLIC HEARING \_\_\_

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

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

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

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

INSURANCE: Shenandoah Personal Communications to provide coverage.

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

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

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



APPROVED AS TO FORM:

*[Signature]* 2/13/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

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

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

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

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

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

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**OPTIONS:** Options Council may consider:

Council may authorize the establishment of the COW as requested

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

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

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



February 6, 2013

LETTER OF AGREEMENT

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

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

Dear Mr. Corbit:

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

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

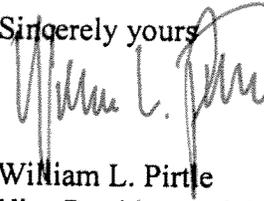
Shentel agrees that it shall repair any damage to the Premises or surrounding areas of the Owner’s property which may be damaged by the use of Shentel’s COW, or the placement thereof. An inspection of the access and Premises will be conducted by Shentel and Owner prior to placement of the COW. Shentel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

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

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

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

Sincerely yours



William L. Pirtle  
Vice President – Sales and Marketing

SEEN AND AGREED:

CITY OF WINCHESTER

By: \_\_\_\_\_

By: \_\_\_\_\_

**EXHIBIT A**



**Parcel 173-1-Q-1**



Authorized Agent must initial for Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_  
**CITY OF WINCHESTER**

**REQUIRED GENERAL TERMS AND CONDITIONS**

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

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

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

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

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

Authorized Agent must initial for Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

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

Authorized Agent must initial for Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

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

2. To Subcontractors:

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

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

Authorized Agent must initial for Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

P. **CHANGES TO THE CONTRACT:**

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

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

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

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

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 product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

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

**MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:**

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

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

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

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

Authorized Agent must initial for Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

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

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

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

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

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

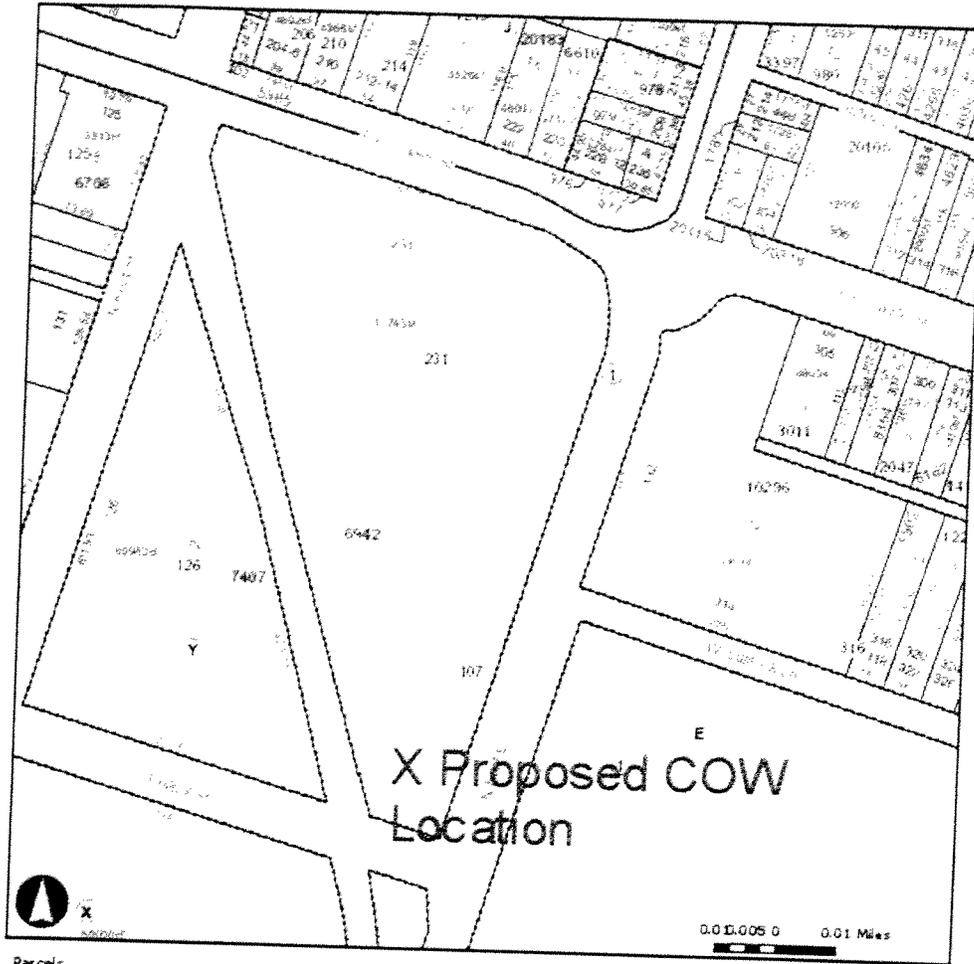
WHEREAS, it has been proposed that such a COW could be erected and utilized during the 2013 Apple Blossom Festival on property owned by the City of Winchester at the South End of the Timbrook Annex on the attached diagram provided with this Ordinance by the Emergency Management Coordinator; and

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

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

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

# Parcel 173-1-Q-1



Parcels



Double Circle



Buildings

Corporate Limits





**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** 03/13/2013 **CUT OFF DATE:** \_\_\_\_\_

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

**ITEM TITLE:** Refund Sky White LLC for Overpaid Business Personal Property 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>[Signature]</u>	<u>    </u>	<u>1-7-13</u>
2. <u>Treasurer</u>	<u>[Signature]</u>	<u>    </u>	<u>1-8-13</u>
3. <u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
4. <u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
5. <u>City Attorney</u>	<u>[Signature]</u>	<u>    </u>	<u>1/29/2013</u>
6. <u>City Manager</u>	<u>[Signature]</u>	<u>    </u>	<u>2-5-13</u>
7. <u>Clerk of Council</u>	<u>    </u>	<u>    </u>	<u>    </u>

Initiating Department Director's Signature: [Signature] 01/07/13  
Date



APPROVED AS TO FORM:

[Signature] 1/29/2013  
CITY ATT

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Ann T. Burkholder, Commissioner of the Revenue  
**Date:** 01/07/2013  
**Re:** Refund for Overpayment of Business Personal Property Taxes

**THE ISSUE:** Sky White LLC properly filed its business personal property taxes for 2012, but due to a typographical data entry error in the office of the Commissioner of the Revenue, was overbilled and then overpaid for such taxes. A representative of the company then noticed the issue and requested a refund.

**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:** City Code §27-8, in accordance with Code of Virginia §58.1-3981 requires City Council approval of any refunds in excess of \$2,500.00

Due to its unique method of taxing vehicles for personal property, the City uses a custom in-house software application for personal property taxation. This software is not only outdated but contains no features to aid in business personal property taxation. Staff must manually calculate with pen and paper the taxable assessment for approximately 4500 local businesses. The final figure is entered into the software, but with no edit or comparative reports, it is virtually impossible to identify simple typographical errors such as this one. IT has ceased development work on this software and is now conducting a Request for Information for replacement software to better fit our needs.

**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.

**RECOMMENDATIONS:** Pursuant to City Code §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 a refund in the amount of \$3,125.31 to Sky White LLC.

## **RESOLUTION**

**WHEREAS**, Sky White LLC has requested a refund of Business Tangible Personal Property Taxes for tax year 2012; and

**WHEREAS**, Whereas the office of the Commissioner of the Revenue has certified that Sky White LLC submitted proper filings for tax 2012, but received a much larger tax bill due to a typographical error by the Office of the Commissioner of the Revenue ; and

**WHEREAS**, Sky White LLC paid the erroneous bill prior to noticing the error; 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 \$3125.31 to Sky White LLC for overpayment of Business Tangible Personal Property Taxes and directs the City Treasurer to refund said amount together with any penalties and interest paid thereon.



Ann T. Burkholder, Commissioner of the Revenue  
15 North Cameron Street  
Winchester, VA 22601  
Email: commrevenue@ci.winchester.va.us

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

**Certificate of the Commissioner of the Revenue**

Sky White LLC properly filed its business personal property taxes for 2012, but due to a typographical data entry error in the office of the Commissioner of the Revenue, was overbilled and then overpaid for such taxes. A representative of the company then noticed the issue and requested a refund in the amount of \$3125.31 to Sky White LLC for overpayment of Business Tangible Personal Property Taxes

Pursuant to Code of the City of Winchester §27-2 and §58.1-3981 of the Code of Virginia, I verify that Sky White LLC is due a refund of \$3125.31 to for overpayment of Business Tangible Personal Property Taxes.

Verified by Commissioner of the Revenue:

Handwritten signature of Ann T. Burkholder in black ink.

Ann T. Burkholder

Date:

01/18/2013

Consent by City Attorney:

Anthony C. Williams

Date:

0-2013-03

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

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

**RESOLUTION** \_\_\_ **ORDINANCE** X **PUBLIC HEARING** \_\_\_

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

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

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

**ADVISORY BOARD RECOMMENDATION:** Winchester Parking Authority unanimously approved the recommendation

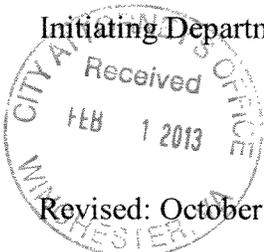
**FUNDING DATA:** The cost to convert the rate change on the digital meters is \$2,012.50 which the Authority will fund.

**INSURANCE:** N/A

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. OTDB	<i>[Signature]</i>		1/30/13
2. Police	<i>[Signature]</i>		2/1/12
3. Finance	<i>[Signature]</i>		1/31/13
4. Economic Redevelopment	<i>[Signature]</i>		2/4/13
5. City Attorney	<i>[Signature]</i>		2/4/2013
6. City Manager	<i>[Signature]</i>		2-5-13
7. Clerk of Council			

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



APPROVED AS TO FORM:

*[Signature]* 2/4/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

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

## **THE ISSUE:**

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

## **RELATIONSHIP TO STRATEGIC PLAN:**

Goal 3 – Continue revitalization of historic Old Town

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

## **BACKGROUND:**

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

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

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**BUDGET IMPACT:**

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

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

**OPTIONS:**

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

**RECOMMENDATIONS:**

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

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

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

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

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

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

0-2013-04

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

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

**RESOLUTION** \_\_\_ **ORDINANCE X** **PUBLIC HEARING** \_\_\_

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

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

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

**ADVISORY BOARD RECOMMENDATION:** Winchester Parking Authority unanimously approved the recommendation

**FUNDING DATA:** N/A

**INSURANCE:** N/A

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

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

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



Revised: October 23, 2009



APPROVED AS TO FORM:

*[Signature]* 2/4/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

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

## **THE ISSUE:**

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

## **RELATIONSHIP TO STRATEGIC PLAN:**

Goal 3 – Continue revitalization of historic old town

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

## **BACKGROUND:**

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

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

## **BUDGET IMPACT:**

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

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

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**OPTIONS:**

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

**RECOMMENDATIONS:**

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

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

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

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

**SECTION 14-68. WHEN METERS SHALL BE OPERATED.**

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

R-2013-08

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: February 19, 2013 CUT OFF DATE: \_\_\_\_\_

RESOLUTION XX ORDINANCE    PUBLIC HEARING   

ITEM TITLE: Development of a Citywide Stormwater Management Policy

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	<u>TD</u>	_____	<u>2-6-13</u>
2. City Attorney	<u>AW</u>	_____	<u>2/6/2013</u>
3. City Manager	<u>DF</u>	_____	<u>2-10-13</u>
4. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature:	<u>BCD</u>	_____	<u>2/5/13</u> Date



APPROVED AS TO FORM:

CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Perry Eisenach, Public Services Director  
**Date:** February 8, 2013  
**Re:** Development of a Citywide Stormwater Management Policy

---

**THE ISSUE:** Developing a Citywide Stormwater Management Policy.

**RELATIONSHIP TO STRATEGIC PLAN:** **Goal 4:** Create a More Livable City for All. Specifically, **Policy Agenda Item #6:** Develop a stormwater management policy with policy directions, project priority and funding mechanisms, which could include the establishment of a stormwater utility.

**BACKGROUND:** The City of Winchester is facing some significant stormwater related challenges that are only expected to increase in the coming years. These challenges include both infrastructure improvements that are necessary to remedy flooding issues and increasing regulatory compliance associated with Phase 2 stormwater regulations and the newly created Chesapeake Bay initiatives, both of which are federal mandates regulating stormwater discharges. In order to successfully meet these challenges, the City needs to develop and implement a comprehensive stormwater management policy and program.

**BUDGET IMPACT:** The City currently spends over \$500,000 per year in operational costs, engineering, and administration of the current stormwater program. The majority of the current revenue for these expenditures comes from state funds (Highway Maintenance) and utilities. This operational expenditure is expected to increase by approximately \$250,000 or more per year as the new stormwater regulations (Chesapeake Bay initiatives) in Virginia take effect within the next two years. The City is also facing well more than \$30 million in capital projects related to stormwater during the next 20 years to replace aging infrastructure and also construct new infrastructure where the existing stormwater infrastructure is inadequate. All together, the City will need to find a revenue source to generate a minimum of approximately \$1.8 million in new revenues per year to meet the needs (operational and capital) of the City's proposed stormwater program. The total annual expenditure for stormwater (operational and capital costs) beginning in FY2015 is estimated to be a minimum of \$2.3 million per year.

**OPTIONS:** The attached report was prepared by the City's stormwater consultant that describes the primary alternatives available to the City for funding a stormwater program. The three primary alternatives for generating the additional revenue sufficient to meet the City's needs are:

1. General Fund
2. Special Tax Assessment District (Fairfax County and Arlington County)
3. Stormwater Utility

There are advantages and disadvantages to each of these options that are described in more detail in the report. However, the first two options would most likely involve an increase in property taxes. A stormwater utility would involve a monthly rate charged to all properties within the City that is typically based on the area of impervious surface on that property. There are currently 11 localities in Virginia that have implemented a stormwater utility and several others are considering implementing one.

**RECOMMENDATIONS:** Based on review of the alternatives, staff believes that implementing a stormwater utility is the most feasible and equitable method available to generate the revenue that will be required to meet the City's stormwater related needs in the future. As such, staff is recommending that City Council adopt the attached resolution which directs staff to develop a detailed proposal for a stormwater utility during the next year for City Council's consideration and action. This proposal will include the following:

1. Ordinances for establishing a stormwater utility.
2. Detailed operation and maintenance plan for the City's stormwater system and program.
3. Detailed long-term capital improvement plan for stormwater improvements.
4. Rate structure and plan for billing and collecting the revenue. Realistically, the soonest that billing could begin would be in July 2014.

**IMMEDIATE POTENTIAL BENEFITS OF A STORMWATER UTILITY:** If a stormwater utility would be implemented, the following are two of the benefits that could be realized immediately:

1. Would provide a funding source for the City's match for the following Revenue Sharing Projects:
  - a. Valley Avenue/Tevis Drainage Improvements (\$2.5 million) – Need to start construction by the end of 2015 or possibly lose \$2.5 million of state funds.
  - b. Valley Avenue/Whitlock Drainage Improvements (\$400,000) – Need to start construction by the end of 2016 or possibly lose \$400,000 of state funds (pending final approval by CTB in June).
2. Provide revenue to pay for approximately \$250,000 per year of expenditures currently paid for using Highway Maintenance Funds (including street sweeping). These funds could then in turn be used for paving and sidewalks, both of which are a high priority for City Council and residents.

There are certainly many other capital improvement projects and operational costs that a stormwater utility would be able to fund in the future, if implemented.

# RESOLUTION

## DEVELOPMENT OF A DETAILED PROPOSAL FOR THE IMPLEMENTATION OF A STORMWATER UTILITY

**WHEREAS**, the City's strategic plan calls for developing a Stormwater Management Policy and Plan; and

**WHEREAS**, the implementation of a Stormwater Utility has been identified as a possible and feasible alternative for funding the City's stormwater-related operational and capital improvement needs; and

**WHEREAS**, City Council supports examining and considering the concept of a Stormwater Utility in detail.

**NOW, THEREFORE, BE IT RESOLVED THAT:** The City of Winchester Common Council hereby authorizes and directs City staff, with assistance from the City's stormwater engineering consultant, to develop a detailed proposal within the next year for a Stormwater Utility for City Council's consideration and possible action. This proposal will include the following components:

1. Ordinances required for establishing a stormwater utility.
2. Detailed operation and maintenance plan for the City's stormwater system and program.
3. Detailed capital improvement plan for stormwater improvements.
4. Rate structure and plan for billing and collecting the revenue.

**Resolution No.**

**ADOPTED by the Common Council of the City of Winchester on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2013.**

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

## New Initiative/New Program Form Fiscal Year 2014

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Department: \_\_\_\_\_

Program Name: \_\_\_\_\_

Initiative Name: \_\_\_\_\_

Budget Code: \_\_\_\_\_

Cost: \_\_\_\_\_ Source of Funds: \_\_\_\_\_

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

Revenue generated: \_\_\_\_\_

Justification for Program/Initiative:  
Explain why the Program/Initiative is needed:

Council Goal(s) supported:

City of Winchester, Virginia  
Stormwater Engineering Services

**Stormwater Funding in Virginia:  
Overview, Background, and Alternatives for  
Funding Municipal Stormwater Programs**

**February 2013**

Prepared for



City of Winchester, Virginia  
Department of Public Services  
Office of the City Engineer  
Rouss City Hall  
15 North Cameron Street  
Winchester, Virginia 22601

Prepared by



4229 Lafayette Center Drive  
Suite 1850  
Chantilly, Virginia 20151

***Note: This report was prepared as a part of the City's efforts to achieve the goals within the Strategic Plan. This report relates to the following Strategic Plan Goal: Goal 4: Create a More Livable City for All. Specifically, Policy Agenda Item #6: Develop a stormwater management policy with policy directions, project priority and funding mechanisms, which could include the establishment of a stormwater utility.***

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## Executive Summary

Like many urbanized jurisdictions in Virginia and around the nation, the City of Winchester is subject to a number of challenges in the delivery of its municipal stormwater management program. Regulatory requirements, such as the Phase II MS4 permitting program, the development and implementation of TMDLs for impaired waterways, and a changing state landscape of stormwater regulation, while presenting opportunities, similarly present mounting challenges – both technical and financial – for regulatory compliance. Alongside the regulatory issues Winchester faces, the City has identified a number of stormwater infrastructure needs that offer opportunities to improve stormwater service for City residents and businesses, which come at significant expense. As the City examines this backdrop for stormwater management program development and delivery, a clear need to evaluate potential funding alternatives has emerged.

There are a number of primary and secondary funding options available to finance the development and delivery of a holistic stormwater management program at the municipal level. Indeed, of the alternatives available, almost all municipal stormwater programs are funded by a blend of these sources. Primary funding sources may include general fund revenues, special service or tax districts, stormwater utility fees, or municipal bonding. Secondary funding sources typically include development fees (e.g. plan review, inspection fees); pro-rata share program fees, VDOT highway maintenance fees, and federal and state grants and loans.

A growing number of localities in Virginia have developed and implemented dedicated funding sources for stormwater management programming to address the same challenges that Winchester faces, including the development of stormwater utilities. While a variety of stormwater utility rate methodologies are available (including an impervious cover methodology, gross area and intensity of development of the parcel, or gross area alone, as examples) the key to the successful development and implementation of a stormwater utility is the establishment of a *fair and reasonable service fee that bears a substantial relationship to the cost of providing the specific services and facilities*. The program to be delivered should be the ultimate driver of the rate established.

Review of the stormwater utility rate base involves answering the primary question of “who should pay” into the stormwater utility. From an equity standpoint, the initial premise of any enterprise funded entity like a stormwater utility is that everyone receiving the service provided by the utility pays. Policy decisions regarding the community rate base must be addressed and identification of the rate base may also be impacted by the rate methodology chosen to establish the base billing unit.

An initial examination of the City’s GIS planimetric data demonstrates that the City’s potential rate base includes a roughly two-third/one-third split between residential and non-residential land area and a quick look at readily identifiable impervious cover data identifies the City’s likely top rate payers, should a stormwater utility be implemented. Further data evaluation will be needed to refine the analysis included herein, as well as completion of additional analysis to actually develop a stormwater utility for the City of Winchester.

## Background and Purpose

The City of Winchester is located in the northern end of Virginia's Shenandoah Valley. The City's nine square miles are home to a population of 26,203, which grew approximately 11 percent between 2000 and 2010. The City is designated as a Phase II community for purposes of the federal Clean Water Act's National Pollutant Discharge Elimination System (NPDES) stormwater discharge permitting protocol, operating a small, municipal separate storm sewer system (MS4). Operating under a series of Virginia small MS4 general permits since 2003, the City has developed and implemented a stormwater management plan including best management practices (BMPs) designed to comply with the six minimum control measures outlined in the small MS4 general permit. These control measures include:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Stormwater Runoff Control
- Post-Construction Stormwater Control for New and Re-Development
- Good Housekeeping/Pollution Prevention

In addition to the City's need to remain compliant with the terms of the Virginia small MS4 general permit for stormwater discharge, the City's stormwater management program also includes a number of other key components. The City operates a floodplain management program, which includes proactive management of floodplain regulations in return for the availability of federally backed flood insurance. The City also designs, constructs, and manages an inventory of stormwater infrastructure, consisting of everything from curb and gutter installation to management of flood control and stormwater quality BMPs.

The City's stormwater management program generates significant funding needs, and that need is only projected to grow in the coming years. In addition to addressing the six minimum control measures of the MS4 general permit, that permit also includes special conditions for MS4s discharging to impaired waterways for which a Total Maximum Daily Load (TMDL) has been established and for which an Implementation Plan (IP) for that TMDL has been completed. TMDLs have been established, and an IP developed, to address benthic and bacterial impairments on Opequon Creek and Abrams Creek in the Opequon watershed. The City's MS4 permit will be reevaluated in early 2013, and the nexus between MS4 permitting and the requirements for water quality improvements set out in the recently released Chesapeake Bay TMDL will likely increase the City's level of service provision for regulatory compliance. In addition, the City has identified a series of capital investment needs in the stormwater management infrastructure inventory that far exceeds the City's current ability to fund on a timely, pay-as-you-go basis.

With these challenges as the backdrop, the City has initiated the process of investigating the feasibility of developing a dedicated funding mechanism for its stormwater management program, with specific interest in the potential development and

implementation of an enterprise funding entity, commonly referred to as a stormwater utility (SWU). This document will address the following background questions, designed to prepare the City's leadership with the answers that will facilitate a decision on how to proceed to the next step of dedicated stormwater program funding:

- What are the programmatic challenges the City faces in delivering stormwater management services and what infrastructure and regulatory obligations and mandates will the City be required to address now and in the future? What are the estimated costs associated with these obligations and mandates?
- What are the primary and secondary stormwater program funding options available to the City under Virginia law?
- How is a SWU traditionally structured and how are the SWUs currently active in Virginia structured? What types of programming are facilitated and revenues generated by these existing Virginia SWUs?
- What are the key factors that determine a SWU's revenue generation potential and how does the City's rate base influence that potential?

The analysis included in the following pages seeks to provide answers to these questions and aid in the City's decision-making process. The answers hold the key to the City's ability to continue to address its stormwater management needs proactively into the future.

# **1. Programmatic Stormwater Challenges, Resources, Identified Needs**

The City of Winchester operates a stormwater quantity and quality management program which includes several significant elements designed to meet the City's regulatory obligations and provide the level of stormwater services the City's constituents have come to expect. The City recognizes several significant challenges in the delivery of stormwater management services. The following paragraphs discuss these elements and offer some insights into the financial requirements and implications of each. In addition, this section also offers an overview of the City's current stormwater service capability and resources, as well as the City's identified, unmet stormwater programming needs.

## **1.1 Programmatic Stormwater Challenges**

### **1.1.1 MS4 Program Development and Implementation**

Based on the City's designation as a U.S. Census defined Urbanized Area, Winchester is subject to the terms of the Virginia Stormwater Management Permit (VSMP) for small MS4 Stormwater Discharges (small MS4 general permit). Beginning in 2003, Winchester developed and implemented a program to address the six minimum control measures of the small MS4 permit. The City's program includes public education and outreach on stormwater management concerns; an illicit discharge detection and elimination program; a construction site management program; a post-construction management component; and a "good housekeeping" component, as mandated by the Phase II regulations.

The City has developed, and is executing, a program plan that includes a series of best management practices (BMPs) designed to address each of the minimum control measures listed above. Each BMP includes a schedule for implementation, responsible parties, and measurable goals from which to evaluate the BMPs implementation and effectiveness to the degree feasible. The small MS4 general permit period in Virginia covers a five year permit cycle. The current general permit was initiated in July 2008, and is set to expire in June 2013. The City is currently implementing MS4 programming in year four of the current small MS4 general permit in Virginia. Permit years run from July 1 to June 30 each year, with annual reporting requirements by October 1 of each permit year. Along with ordinance implementation and capital projects, outlined below, implementation of the City's MS4 program constitutes a significant portion of the City's stormwater management effort on an ongoing basis.

Of note, recent EPA evaluation of the Commonwealth of Virginia's administration of the MS4 program has led to EPA scheduling MS4 program audits for multiple MS4 Phase I and Phase II communities in Virginia in 2011 and 2012. As such, local MS4 programs in Virginia are likely to receive increased scrutiny as EPA evaluates the state's administration of the program and local compliance with permit terms and conditions.

### **1.1.2 City Water Protection Ordinance**

Tracking along with the MS4 permit's minimum control measures, and among the more significant elements of the City's program to date, Winchester has adopted a water protection ordinance (City Code Chapter 9, as amended). The ordinance covers a number

of the City's water quantity and quality management protocols for new and re-development projects, including the development and implementation of erosion and sediment control plans, stormwater management plans, and the implementation of post-construction water quality and quantity management best management practices (BMPs). The ordinance was also designed to address some additional, mandated MS4 program authorities, such as illicit discharge detection and elimination administration and execution. Ordinance administration constitutes a significant investment of City resources, including plan review, inspections, and bond administration for stormwater and erosion and sediment control related practices.

Of note where the ordinance is concerned, Virginia's recently amended Stormwater Management Law and attendant Regulations will necessitate a review of the City's water protection ordinance and stormwater management program execution over time. Updates to the ordinance and the City's program will need to be approved by the Virginia Soil and Water Conservation Board in time to take effect once the new regulations come online. The new state regulations were adopted in September 2011 and take full effect on July 1, 2014.

### **1.1.3 Total Maximum Daily Loads (TMDLs)**

For waterways and water bodies not currently meeting Virginia water quality standards, defined as impaired waterways, the Clean Water Act (CWA) requires that each state with primacy over CWA programming, including Virginia, develop a Total Maximum Daily Load (TMDL) for that waterway. The TMDL is designed to define the maximum amount of the pollutant/constituent of concern that a waterway can receive while still meeting water quality standards. A TMDL is typically calculated by adding the Wasteload Allocation (WLA), comprised of the discharge of the pollutant/constituent of concern from "point sources," with the Load Allocation (LA), comprised of the discharge of the pollutant/constituent of concern from "non-point sources." A margin of safety is typically included in the calculation as well. Once a TMDL has been developed, the next step in addressing the TMDL's water quality concerns is the development of an implementation plan (IP). The IP typically outlines the steps and timelines necessary to address the concerns and improve the water quality to the point of being able to remove the subject waterway from the impaired waters list, commonly referred to as the section 303(d) list (in reference to the specific section of the CWA).

Virginia's current small MS4 general permit requires that "the operator...shall incorporate applicable best management practices identified in the TMDL implementation plan in their MS4 program. The operator may choose to implement BMPs of equivalent design and efficiency instead of those identified in the TMDL implementation plan, provided the rationale for any substituted BMP is provided and the substituted BMP is consistent with the TMDL and the WLA." (Permit, section I B 4).

The City of Winchester is directly impacted by multiple, current TMDLs, including TMDLs for benthic impairments (sediment based) and bacterial impairments on Opequon Creek and Abrams Creek in the City limits. These TMDLs were developed and approved in 2004, with an Implementation Plan for these TMDLs developed and approved in 2007. As such, the need for consistency in BMP approach with the City's MS4 program is now required though the permit nexus quoted above.

In addition to these TMDLs, the City of Winchester, due to its location in the Chesapeake Bay watershed, will also eventually need to ensure its MS4 BMP implementation consistency with the Chesapeake Bay TMDL and the associated Watershed Implementation Plans (WIPs) currently under development. The Chesapeake Bay TMDL was developed and approved in December 2010, and the series of WIPs scheduled for development during the Bay TMDL's implementation period are now under construction. The final WIP II document was submitted to EPA by Virginia in March 2012. The Bay TMDL includes necessary reductions of Nitrogen, Phosphorus, and Sediment to meet the water quality standards established for the lower portion of the Bay. While the Bay TMDL and associated WIPs were not completed at the time of the implementation of the current small MS4 general permit in Virginia, the same nexus that triggered the inclusion of the Opequon watershed TMDLs into the current MS4 permit cycle will likely force the inclusion of the Bay TMDL WIPs in the next small MS4 permitting cycle, scheduled to kick off in July 2013. Cost impacts of the Bay TMDL on the City, while difficult to assess, are nonetheless likely to be significant as there appears to be a great deal of emphasis placed on infiltration of stormwater, which may require significant retrofitting of existing infrastructure.

In addition, as noted earlier, Virginia amended the Commonwealth's Stormwater Management Law and Regulations. Part of that amendment process included a review and change to the Phosphorus water quality standard for new and re-development projects, so as to be consistent with the Phosphorus reductions called for in the Chesapeake Bay TMDL. As City programming and ordinances are reviewed as part of the state law amendment process, it is important to note that those changes will also be helping to address local stormwater management programming in relation to the Phosphorus reductions called for in the Bay TMDL.

#### **1.1.4 Stormwater Management/Drainage Capital Projects**

Like many municipalities in Virginia and around the nation, the City of Winchester has also identified a number of capital projects to enhance drainage capability, mitigate flooding potential, and address additional stormwater management priorities. The projects identified include various storm drainage improvements at locations throughout the City. The CIP Plan also notes that funding the CIP in future years (beyond FY13) would possibly be generated by a stormwater utility.

### **1.2 Current City Stormwater Program Resources**

To address the programmatic priorities and challenges for stormwater management highlighted above, the City of Winchester administers a local stormwater management program. Focusing in large part on local development review and MS4 permit compliance, the City's estimated annual program budget for stormwater management including both operating expenses and capital expenses is detailed below and provides narrative on the City's current level of stormwater service. The current program is divided into functional service centers for purposes of this analysis, and includes Administration, Operations and Maintenance, Planning and Engineering, and Capital Projects. At the end of each categorical description, a rough dollar calculation has been included to indicate the order of magnitude resources allocated to each activity annually.

The City has three primary sources of funding for stormwater management activities. Much of the City’s current stormwater management programming is funded through the City’s VDOT Highway Maintenance Fund allocation and through the Department of Public Utilities. In addition to these budget outlays, the City also recoups some revenue through development review fees, some of which are directed at erosion and sediment control, grading plans, and inspections.

### 1.2.1 Administration

Administrative functions for stormwater management include the management and administration of the City’s departments and divisions responsible for the execution of all aspects of the City’s stormwater management program. Administrative costs related to stormwater management are funded primarily through the VDOT Highway Maintenance Fund and review fees. Of the City’s funding designated in the Highway Maintenance Fund budget for administrative expenses, approximately 20% is spent on stormwater-related activities.

Functional Service Center for SWM	Approximate Annual Allocation
Administration	\$65,000
<b>Administration Total</b>	<b>\$65,000</b>

### 1.2.2 Operations and Maintenance

The annual allocation in the Highway Maintenance Fund budget for street maintenance is approximately \$2.3 million, with the vast majority of these dollars designated for street and sidewalk repair. Operation and maintenance expenses for stormwater activities include street sweeping, mowing drainage ways and cleaning stormwater inlets within public street rights-of-way. The City also includes a small allocation annually for small pipe repair and replacement and related infrastructure repairs. The City’s budget includes materials and equipment, such as two street sweepers and associated operators (2 FTEs).

Functional Service Center for SWM	Approximate Annual Allocation
Operations and Maintenance	
Street Sweeping (2 FTEs)	\$90,000
Street Sweepers, Maintenance, Depreciation	\$65,000
Mowing/Channel Clearing	\$50,000
Small Infrastructure Repair	\$28,000
<b>Operations and Maintenance Total</b>	<b>\$233,000 Total</b>

### 1.2.3 Planning and Engineering

Planning and engineering services in the City of Winchester include stormwater design, erosion and sediment control plan review and inspection, and funding for consultant engineering services. These services are funded by Utilities and the General Fund. The total amount allocated for engineering services in the departmental budget includes staff who are involved primarily with stormwater issues including one full-time erosion and sediment control inspector and two full-time engineering professionals who devote at least half of their time to stormwater. Time devoted by the director of the department to

stormwater issues is also included in this functional service center. In addition, this functional service center includes funding for professional consulting services related to policy development and regulatory compliance, as well as funding to cover additional, miscellaneous stormwater services.

<b>Functional Service Center for SWM</b>	<b>Approximate Annual Allocation</b>
Planning and Engineering	
E&S Inspector/Engineering Staff (2 FTEs)	\$100,000
Department Leadership (.2 FTEs)	\$25,000
Professional Engineering/Consulting	\$60,000
Miscellaneous Stormwater Services	\$35,000
<b>Operations and Maintenance Total</b>	<b>\$220,000 Total</b>

### **1.2.4 Capital Projects**

Stormwater capital projects in the past have typically been funded using General Funds, local enterprise capital and state highway construction funds. The City has also issued approximately \$60 million in revenue bonds during the last five years to finance major water and sewer system upgrades. Annual revenues generated by water and sewer fees have been pledged for repayment of this debt. The vast majority of capital projects funded in this way have focused on replacing and upgrading decades-old water and sewer lines located throughout the City. The implementation of stormwater capital projects in recent years has largely been driven by opportunities recognized as part of these water and sanitary sewer line rehabilitation and replacement projects. Approximately \$2 million of \$60 million in revenue bond funding mentioned above was spent on making drainage improvements and replacing aging stormwater infrastructure as part of the process of upgrading all utilities located beneath streets during construction. Other stormwater capital improvement projects are funded on a pay-as-you-go basis and are only available for implementation as funding allows. The City does not have a sinking fund for stormwater capital improvement projects, and as such, no consistent funding mechanism for the planning, design, and construction of stormwater management capital improvements.

### **1.3 Identified Stormwater Programming Needs/Priorities**

The City of Winchester has identified a number of stormwater management programming needs and priorities, in addition to those currently met with the resources and staff available, which remain unmet at present. These priorities address the full spectrum of stormwater management service in the City, including regulatory compliance and capital investment for stormwater, as well as additional, beneficial floodplain management activities. Where applicable, the current funding resource shortfall is highlighted in each category to demonstrate the level of effort, in “order of magnitude” dollars, that each identified priority represents.

#### **1.3.1 Private BMP Inspections**

Currently, post-construction inspections of BMP facilities located on private property are the responsibility of property owners, who are required to provide City staff with verification that regular required inspections and corrective actions are being conducted.

Local compliance with this requirement can be difficult to ensure and enforce as this protocol places the initial, actionable burden on property owners, who oftentimes will have to engage the services of a licensed professional (engineer, landscape architect, etc.) to inspect the facility in question. Once inspected, the property owner then potentially incurs additional expense to remedy whatever deficiencies may be found. To improve compliance with private maintenance agreements and the success rate of ensuring the proper operation and maintenance of post-construction stormwater management BMPs (as is required in the City’s MS4 permit), the City recognizes the value of turning this dynamic by starting the inspection process using trained City personnel. City staff conducting the initial inspection of privately owned and maintained stormwater facilities relieves the property owner of the initial burden of inspection expense, and also provides the City with more direct evidence of facility condition. With that knowledge, the City will be better positioned to enforce maintenance agreements and ensure that these facilities are maintained and operating as designed. In addition, City inspection of privately maintained facilities offers more equity in program delivery, as City staff currently inspect publicly-maintained facilities.

Identified Need/Priority	Annual Funding Needed
Stormwater Management Facility/BMP Inspection	\$50,000

### 1.3.2 Virginia Stormwater Management Permit Local Program Implementation

The recently-adopted Virginia Stormwater Management Regulations state that any locality required to obtain coverage under an MS4 permit must adopt a local stormwater management program for land disturbing activities. In addition, the Regulations also require municipal implementation of the VSMP General Permit for the Discharge of Stormwater from Construction Activities, which applies to all land disturbances of one acre or more. Under the new requirements, City staff will be required to review plans for proposed BMP facilities and inspect facilities during construction to ensure compliance with locally-adopted stormwater management standards modeled after the new regulations. Additional staff time will be needed to ensure construction sites comply with approved SWPPPs and Stormwater General Permit conditions. As such, the City anticipates the impact of local implementation of the revised Stormwater Management Regulations to include the addition of one full time inspector to accommodate the added inspection needs for compliance. In addition, the City will need to update the Water Protection Ordinance to ensure compliance with the new state standards.

Identified Need/Priority	Annual Funding Needed
Construction GP/SWPPP Site Inspections	\$70,000

### 1.3.3 Chesapeake Bay TMDL

The Draft Chesapeake Bay TMDL Phase II WIP establishes aggregate waste load allocations for all Virginia MS4s in the Chesapeake Bay Watershed and corresponding reductions in nutrients and sediment pollution on existing developed lands (both pervious and impervious) by 2025.

The Senate Finance Committee of the Virginia General Assembly released a study in November 2011 discussing the costs to meet Virginia’s goals through the Chesapeake Bay TMDL Watershed Implementation Plan. For urban/suburban stormwater, the report notes that retrofitting of existing stormwater systems will be costly and will likely be borne by local governments and that local government-imposed stormwater utility fees will likely become the main source for supporting future costs<sup>1</sup>. Utilizing the Runoff Reduction methodology included in the recently amended Virginia Stormwater Management Law & Regulations, and assuming the application of the most effective structural stormwater BMPs to meet pollution reductions required, the Senate study provides large, order of magnitude cost estimate ranges for the state as a whole, as well as estimates for select cities and counties in Virginia.

The City of Winchester developed an internal assessment of the City BMPs needed to approximate compliance with the nutrient and sediment goals of the Chesapeake Bay TMDL. In so doing, the City identified a number of practices and retrofits designed to meet the allocations as currently modeled. Among the items identified were more frequent street sweeping (increase of 50%), development and implementation of nutrient management plans, and the retrofitting of existing stormwater detention facilities to “extended detention” facilities – allowing for a longer draw down period and thus improving water quality. The estimated need for retrofitting these facilities is based on the average area treated by constructed ponds in the City and the number of facilities that would need retrofitting to achieve the treated area calculation developed for the City’s implementation scenario. Estimates include design and construction costs for retrofits and are annual costs through the Chesapeake Bay TMDL implementation date of 2025.

<sup>1</sup>“Chesapeake Bay TMDL Watershed Improvement Plan: What Will It Cost to Meet Virginia’s Goals” Senate of Virginia, Senate Finance Committee, November 18, 2011, p.11.

Identified Need/Priority	Annual Funding Needed
Additional Street Sweeping	\$35,000
Nutrient Management Planning and Implementation	\$15,000
Retrofits for extended detention (design & const.)	\$195,000 <sup>2</sup>

Of note, the Implementation Plan for the Opequon watershed estimates the costs associated with the achievement of the required load reductions in the Opequon watershed at between \$41 million and \$63 million. While the entire, projected cost burden will not fall on the City, a significant portion of the implementation plan does include infiltration practices/retrofits in the Abrams Creek watershed and the Upper Opequon watershed, which largely fall inside the City limits, and are estimated at \$33.2 million to over \$55 million of the total estimate<sup>3</sup>.

### 1.3.4 National Flood Insurance Program (NFIP) Community Rating System (CRS) Crediting

The National Flood Insurance Program’s Community Rating System (CRS) is a voluntary program that rewards floodplain management activities exceeding the NFIP’s minimum requirements. Communities are rated Class 10 through Class 1 with flood insurance premium rates discounted in increments of 5% for each class up to a 45% premium discount for a Class 1 community. Communities that participate in the CRS program can earn points in the CRS manual for a variety of proactive stormwater management and floodplain management activities. For every 500 points earned, a community qualifies for a class rating reduction (10 to 9, 9 to 8, etc.). The City has recognized that with the insertion of additional staff time and resources, many of the City’s floodplain management activities could be documented, thus improving the City’s rating and lowering the flood insurance premiums that the City’s property owners pay. The City currently has 156 flood insurance policies in effect insuring almost \$42 million in property. Total premiums paid on those policies are approximately \$261,000. A 5% reduction in premiums would save those policy holders over \$13,000 in annual premiums while a 10% reduction would save over \$26,000 in annual premiums.

Identified Need/Priority	Annual Funding Needed
NFIP/CRS Program Implementation and Admin	\$15,000

### 1.3.5 Stormwater Capital Projects

The City has identified numerous drainage projects that could be undertaken if additional funding were available. Two of these considered to be the highest priorities are listed in the current Five-Year Capital Improvement Plan: Valley Avenue Drainage & Sidewalks Improvements estimated to cost \$5 million (\$2.5 million in state funds with 100% local

<sup>2</sup>Assumes the need to retrofit 3 ponds every two years through 2025 based on average treated area of constructed ponds in the City as of this draft. Assumption includes design and construction costs for each retrofit project.

<sup>3</sup>Opequon Creek Watershed TMDL Implementation Plan, Opequon Creek IP Steering Committee et al., July 5, 2006, Table 1.3, p.6.

match), and South Loudoun/Abrams Drainage Improvements estimated to cost \$2.3 million (all funding from state funds). The City’s general obligation bonding capacity is likely to be limited for the next ten years based on prior borrowing for other projects. A dedicated stormwater funding mechanism, such as a stormwater utility, would provide a revenue stream capable of supporting revenue bonds for capital projects. The City estimates the total amount of capital project backlog for stormwater and drainage projects at \$30 million. At a twenty year buy down rate, an additional capital budget for stormwater projects of \$1.5 million per year is needed.

<b>Identified Need/Priority</b>	<b>Annual Funding Needed</b>
Stormwater Management/Drainage CIP	\$1,500,000

In summary, based on the identified, unfunded stormwater management needs and priorities the City has identified to date, approximately \$1.8 million in additional, annual revenue will be needed. It should be noted that these dollar estimates are “order of magnitude” estimates and will need refinement in a more detailed cost of service analysis should the City choose to move forward with the development of a stormwater utility feasibility study.

## **2. Stormwater Program Funding Options**

Local governments in Virginia utilize funding from a variety of local, state and federal sources to implement local stormwater management programs. In general, these funding mechanisms can be classified either as primary or secondary sources based on the source's capacity to cover the costs of implementing a local stormwater program. Examples of primary sources include general fund revenues, special tax assessment districts, stormwater utilities, and local government bonds. In addition, secondary funding opportunities such as development fees, pro-rata share programs, Virginia Department of Transportation (VDOT) road maintenance funds, and state/federal grants typically constitute a smaller, albeit significant, share of a locality's overall stormwater funding. Given the anticipated costs of the City's future stormwater infrastructure needs and regulatory obligations, the following sections assess the feasibility and relative advantages/disadvantages of each of these funding mechanisms.

### **2.1 Primary Funding Sources**

Primary funding sources are designated as such based on their ability to fund the vast majority of a municipal stormwater management program.

#### **2.1.1 General Fund**

Most localities in Virginia that lack a dedicated source of funding for stormwater management fund the majority of their stormwater program activities using general fund revenues. The City's budget projects \$70.8 million in general fund revenue in FY2012, approximately \$58.7 million of which will come from real estate, personal property, meals, machinery and tools, state sales and other local taxes. These tax revenues currently fund: a variety of stormwater-related programs and services provided by departmental staff; capital improvement fund projects to address drainage issues and/or control flooding; and contractual work for outside professional engineering or other consulting services related to stormwater design or regulatory compliance. Although local tax revenue has traditionally been considered a stable revenue stream, the recent downturn in the real estate market has led to a dramatic decline in property values in many local and regional markets. This decline has reduced the taxable value of real estate at a time of rising governmental costs for providing public services and growing opposition to increased government taxation and spending. In addition, the fact that stormwater must compete with schools, police, emergency services, general administration, and myriad other public services vying for taxpayer dollars during annual budget cycles presents additional challenges to adequately funding identified needs through this source.

#### **2.1.2 Tax Assessment/Service Districts**

Virginia law includes several provisions authorizing the creation of special tax assessment and service districts similar to the City's current Downtown Special Assessment District. In general, both service and special assessment districts enable local governments to tax property located within a pre-defined area at a higher rate in order to recover the costs associated with constructing a public facility from which these same properties obtain a unique or "special" benefit. Fairfax County is one of a handful of local governments which have created a County-wide stormwater service district pursuant to the authority granted in the Code of Virginia (§15.2-2400) in order to help

defray the County's costs to build, operate, and maintain its stormwater system. Property owners within the district pay an additional one and one-half cents (\$0.015) per \$100 of assessed real estate value, which has yielded roughly \$20 million per year in dedicated funding to the County since 2006. The additional tax has the advantage of being relatively invisible to property owners, who pay an additional \$65 per year on average. Ad valorem (i.e. real estate) taxes are typically paid by banks out of a property owner's mortgage escrow account. Nevertheless, this revenue source has been affected by the recent decline in real estate values.

Arlington County utilizes a local sanitary sewer district created in 1930 pursuant to the Sanitary District Act in order to raise revenue for operating and capital expenses necessary to maintain, expand and upgrade the County's storm sewer system. The Sanitary District Act<sup>4</sup> confers the authority to "construct, reconstruct, maintain, alter, improve, add to and operate...drainage...systems, for the use and benefit of the public in such sanitary district."<sup>5</sup> The County imposes an additional tax of \$0.013 per \$100 of assessed real property value for property located within the Arlington Sanitary District, which will raise an estimated \$8-\$10 million annually in FY 2009-FY 2014, the bulk of which will be directed to capital projects. The average Arlington homeowner pays approximately \$75 in new taxes per year under the levy. The tax does not apply to existing tax-exempt properties.

Rather than implementing a service district, the City of Alexandria adopted an ordinance in 2010 establishing a dedicated stormwater account so that funds cannot be easily diverted from stormwater management to other purposes during annual budget cycles. The City dedicates \$0.005 cents of the real estate tax rate to a specially-created Stormwater Management Fund in order to finance stormwater maintenance and infrastructure improvements. Annual revenue raised by the tax (approximately \$1.7 million in FY 2013) is combined with an annual transfer of funds from the Capital Projects Fund and General Fund, which will yield approximately \$3.6 million in FY 2013 increasing to approximately \$4.6 million by FY 2021.

In addition to service districts, the Code of Virginia (§15.2-2404) authorizes local governments to levy a special tax assessment or rate on property abutting a stormwater management system in order to pay for the construction and maintenance of stormwater facilities. The amount collected from property owners by way of the additional assessment or rate may not exceed the benefits resulting from the improvements. The governing body of a town or city may impose the additional tax only after an agreement has been entered with abutting landowners or three-fourths of the affected landowners have executed a petition agreeing to the levy. Realistically, this requirement for overwhelming public support of additional taxation presents a major hurdle for municipalities contemplating the use this authority within their jurisdiction.

### **2.1.3 Stormwater Utility**

The development and implementation of a stormwater utility in Virginia is governed by Code of Virginia §15.2-2114, which outlines the applicable uses of revenue generated by

<sup>4</sup>§21-112.22 et seq., Code of Virginia

<sup>5</sup> §21-118.4(a), Code of Virginia

a stormwater utility, which properties may be charged, and local requirements and flexibility in the establishment of fee credits and waivers. Revenue generated by a stormwater utility in Virginia may be used to pay for, or recover costs for, the following:

1. The acquisition, as permitted by §15.2-1800, of real and personal property, and interest therein, necessary to construct, operate and maintain stormwater control facilities;
2. The cost of administration of such programs;
3. Engineering and design, debt retirement, construction costs for new facilities and enlargement or improvement of existing facilities, including the enlargement or improvement of dams, whether publicly or privately owned, that serve to control stormwater; however, prior to adoption of any ordinance pursuant to this section related to the enlargement or improvement of privately owned dams, a locality shall comply with the notice provisions of §15.2-1427 and hold a public hearing;
4. Facility maintenance, including the maintenance of dams, whether publicly or privately owned, that serve to control the stormwater; however, prior to adoption of any ordinance pursuant to this section related to the maintenance of privately owned dams, a locality shall comply with the notice provisions of §15.2-1427 and hold a public hearing;
5. Monitoring of stormwater control devices;
6. Pollution control and abatement, consistent with state and federal regulations for water pollution control and abatement; and
7. Planning, design, land acquisition, construction, operation and maintenance activities.

The Code of Virginia also provides instruction as to how the charges may be assessed, noting that owners or occupants may be charged depending on the billing mechanism chosen, and that charges are to be calculated based on a property's contribution to stormwater runoff. A locality adopting a stormwater utility in Virginia must provide for full waivers of charges to federal, state, or local government agencies when the agency owns and provides for maintenance of storm drainage and stormwater control facilities or is a unit of the locality administering the program. A locality shall also provide full waivers of charges for roads and public street rights-of-way that are owned and maintained by state or local agencies.

Localities may grant waivers to any person who develops, redevelops or retrofits outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading. The locality shall base the amount of the waiver in part on the percentage reduction in both stormwater flow and pollutant loading, from pre-development to post-development. No locality shall provide a waiver to any person who does not obtain a stormwater permit from the Department of Environmental Quality when such permit is required by statute or regulation. In addition, localities have the option to provide for full waiver of charges to cemeteries.

Income derived from service charges may not exceed the actual costs incurred by a locality operating under the state's enabling provisions. In addition, localities adopting a stormwater utility must hold a public hearing after the publication of public notices in a newspaper with general circulation in the locality once a week for two weeks with the second publication not sooner than one week after the first.

In Virginia, stormwater utility income may also be used for the financing of bonds. Localities may issue general obligation bonds or revenue bonds in order to finance the cost of infrastructure and equipment for a stormwater control program. For bonding purposes, infrastructure and equipment includes structural and natural stormwater control systems of all types, including retention basins, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system. The procedure for the issuance of any such general obligation bonds or revenue bonds must comply with the procedure for issuance of such bonds as set forth in the Public Finance Act (§15.2-2600 et seq.).

For delinquent or un-paid accounts, localities have the authority to charge interest, not to exceed the maximum amount allowed by law, until such time as the overdue payment and interest are paid. Charges and interest may be recovered by the locality by a process comparable to a lien for unpaid taxes.

For billing purposes, Virginia's enabling authority allows communities to combine the billings for stormwater charges with billings for water or sewer charges, real property tax assessments, or other billings. The locality may establish the order in which payments will be applied to the different charges.

Finally, Virginia's current authority allows for any two or more localities to enter into cooperative agreements concerning the management of stormwater. However, no locality shall combine its billings with those of another locality or political subdivision, including an authority, unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

#### **2.1.4 Municipal Bonds**

Municipal bonds are frequently used by local governments to provide a significant amount of upfront funding to facilitate the completion of large projects, including stormwater infrastructure, in a shorter time than could be accomplished with "pay-as-you-go" funding. Municipal bonds also have the advantage of spreading out payment for these facilities over extended periods of time (usually up to twenty years). However, bond funds are borrowed funds, and as such, come with a debt service/interest cost attached. State laws and the City Charter provide the Council with the legal authority to issue general obligation bonds to support jumpstarting capital improvement projects. A simple majority vote of the Council is needed to issue general obligation bonds unless the Council elects to submit the question of bond issuance to the public via a referendum.

By implementing a stormwater utility, special assessment or other dedicated revenue source to pay for stormwater management functions, the City would have available the alternative to issue revenue bonds. With an established track record of revenue generation, enterprise fund revenue generated by stormwater utility fees can legally support the issuance of revenue bonds for stormwater capital improvement projects. Although revenue bonds typically come with a higher interest rate (depending on the community's bond rating), these bonds would not be competing with other City general obligation bond fund priorities, do not require a vote of the public and may not count against the community's statutory debt ceiling.

## **2.2 Secondary Funding Sources**

Secondary funding methods that augment primary sources should be dictated by the needs of the City's program and are applicable only in certain situations. These secondary funding sources enable local areas of the City to pay extra to obtain a higher level of service than the basic program would normally provide; apply special charges to newly-developed/developing property in order to equalize financial participation in capital costs between new and existing landowners; or otherwise allow the City to fund unique stormwater initiatives and/or projects.

### **2.2.1 Development, Inspection & Plan Review Fees**

Like many local governments, the City charges a variety of fees to developers as part of the land development review and approval process. These fees are required to be paid when the landowner or his agent submits an application to develop property including applications for subdivisions, site plans, conditional use permits, re-zonings, variances/exceptions, building permits and inspections, and land disturbance permits. The funding provided by application fees for on-going construction and maintenance needs is quite limited; fees for City planning/zoning, building, and engineering services are only projected to generate about \$200,000 in revenue in FY2012. Nevertheless, development fees provide an important source of revenue for the City's stormwater program at the time construction occurs by helping the City recoup its initial costs to review and inspect facilities in order to ensure that stormwater infrastructure is constructed correctly and in accordance with local and state requirements. By using this revenue source wisely, the City can ensure that stormwater infrastructure is selected and constructed so as to minimize costly public maintenance and/or replacement in future years.

Rezoning proffers represent another potential source of revenue to fund capital improvements in cases where proffered conditions are necessitated by the rezoning and benefit the rezoned property. City Code Section 22-1-2 enables the City to accept proffered conditions from developers consisting of a cash payment for, or construction of, stormwater improvements included in the City's Capital Improvement Program. Frequently, these costs are added to the price of the developed property and thus passed on to private property buyers once the property is sold.

### **2.2.2 Pro-Rata Share Programs**

State law enables localities to charge landowners or developers a share of the cost of providing new stormwater control facilities when, as is frequently the case, such facilities benefit multiple properties. Specifically, a locality may provide in its subdivision ordinance that a sub-divider pay the pro rata share of the cost of providing "reasonable and necessary" drainage facilities located outside the property limits of the land owned/controlled by the sub-divider but necessitated or required (at least in part) by the construction of the subdivision or development (§15.2-2243). The City currently has a pro rata share policy for drainage improvements in Section 18-13 of the Zoning Ordinance which permits a developer to either contribute his share of the cost of the needed facilities or construct a portion of the improvements needed to serve his development. Where a general drainage improvement program has been established, a developer's pro rata share is based on the ratio of the volume of stormwater runoff caused

by the development to the estimated total volume of stormwater runoff for the drainage shed at build-out. Although the City’s pro rata share program may not be able to fully fund all elements of its stormwater management program, the ordinance as written is an important tool for funding the capital costs necessitated by new development at presently-allowed (i.e. by-right) development densities, that is, without the need to rezone property to allow more intensive (or higher-density) usage.

### 2.2.3 VDOT Highway Maintenance Funds

The City anticipates approximately \$2.5 million in VDOT highway maintenance funding in FY 2013; however, only a small percentage of these funds are specifically designated for stormwater system maintenance. Nevertheless, since public streets constitute a significant part of the City’s stormwater network, remaining highway funds can be used to repair or replace gutters, catch basins, pipes, and other stormwater infrastructure as part of general road repair and maintenance. Although state funding to the City has increased modestly in each of the last three years and is projected to increase in FY 2012, the potential for even larger increases in future costs due to fluctuations in the price of asphalt and other materials presents an on-going concern. Indeed, a report produced by the Joint Legislative Audit and Review Commission of the General Assembly in 2002 found that 76% of recipients felt these funds were insufficient to meet locality-identified maintenance needs. In addition, road maintenance funds address only one aspect (i.e. public streets) of the stormwater system, are primarily used for maintenance of existing facilities rather than construction of new infrastructure, and must compete with other highway maintenance needs such as re-paving, sidewalk repair, signage replacement, and water/wastewater system maintenance.

### 2.2.4 State & Federal Grants/Loans

A number of state/federal government agencies administer grants to localities that fund stormwater program activities including project planning and design, construction, education/outreach and similar activities. Although the allure of so-called “free money” is especially tempting to local governments, competition for limited funding is intense and grants typically require a local cash or in-kind match equal to a certain percentage of the grant funds received.

Grant/Loan Program	Type	Agency/Entity	Activities Funded	Maximum Award
<b>Virginia Water Quality Improvement Fund (WQIF)</b>	Grant	VDCR	BMP retrofits and installation, education/outreach, water quality monitoring	\$250,000 (\$40,000 for Category 2 or 3 projects)
<b>Virginia Clean Water Revolving Loan Fund</b>	Loan	VDEQ	Land acquisition, brownfield remediation, installation of agricultural BMPs	None (approx. \$40 million available annually)
<b>Chesapeake Bay</b>	Grant	NFWS, EPA	BMP demonstration	\$1 million

<b>Innovative Nutrient and Sediment Reduction Program</b>		Chesapeake Bay Program	projects	
<b>Chesapeake Bay Small Watershed Grants</b>	Grant	NFWS, EPA Chesapeake Bay Program	Education/outreach, IDDE, BMP retrofits and installation, BMP demonstration projects, stream restoration projects	\$200,000
<b>Chesapeake Bay Restoration Fund (CBRF)</b>	Grant	CBRF Advisory Committee (General Assembly)	Education/outreach	None (\$307,971 available FY 2012)

In addition, grant funding also typically comes with additional administrative costs for grant management and administration. While that effort may be considered as part of a locality's in-kind match on a case by case basis, it nevertheless produces a real need in resource allocation to perform the services required to comply with the grant terms.

Several of the above-listed, secondary stormwater funding sources are already providing resources for stormwater management programming in the City. Any or all of these secondary funding sources could be applied to a blended funding approach for the City's stormwater management program moving forward. It should be noted that most municipal stormwater programs, including those funded by a stormwater utility, typically include some or all of the secondary funding mechanisms mentioned here.

### 3. Stormwater Utilities in Virginia & Rate Methodology

In deciding whether to proceed with the creation of a stormwater utility, the City has an opportunity to examine the experience of other localities in Virginia and consider the various methodologies available for arriving at an equitable and effective rate structure for a stormwater utility. This evaluation should answer several fundamental questions:

- Does the City have the data and information technology resources to effectively and accurately implement the preferred methodology?
- Should residential and non-residential properties pay the same rate and, if not, what is the justification for imposing different rates?
- What methodologies are used by other jurisdictions and what are the relative revenue impacts of the various methodologies?

#### 3.1 Stormwater Utilities in Virginia

Virginia is home to a number of communities that utilize a stormwater utility enterprise fund to support the majority of their respective communities' stormwater management activities. The following list documents those communities with stormwater utilities, including their most recent charges per billing unit:

Municipality	NPDES MS4 Phase	ERU (Billing Unit) Calculation	Monthly billing rate per ERU	Annual Revenue (FY12)	Equivalent Winchester Annual Revenue Potential <sup>6</sup>
City of Portsmouth	Phase I	1,877 sq. ft.	\$7.00	\$6,685,600	\$661,248 (res.) \$1,968,708 (non-res.) <b>\$2,629,956 (tot.)</b>
City of Norfolk	Phase I	2,000 sq. ft.	\$8.82 (res.) \$6.08 (non-res.)	\$12,500,000	\$833,172 (res.) \$1,604,828 (non-res.) <b>\$2,438,000 (tot.)</b>
City of Chesapeake	Phase I	2,112 sq. ft.	\$7.35	\$14,800,178	\$694,308 (res.) \$1,837,116 (non-res.) <b>\$2,531,424 (tot.)</b>

<sup>6</sup> This column represents the potential annual revenue that would be generated if Winchester were to adopt the ERU and billing rate established by each of the municipalities listed in the table, provided: (1) property owned by any local, regional, state or federal government entity is exempted from the fee, (2) each residential parcel is assigned impervious land cover equivalent to one ERU, (3) each non-residential parcel is assigned a proportional value based on the amount of impervious land cover located on the parcel relative to one ERU, and (4) the effect of additional waivers and credits on potential revenue generation is not considered. The actual amount of revenue generated may differ considerably due to variations in these variables and other factors not considered in this analysis.

<b>City of Virginia Beach</b>	Phase I	2,269 sq. ft.	\$9.61	\$29,872,023	\$907,788 (res.) \$2,235,828 (non-res.) <b>\$3,143,616 (tot.)</b>
<b>City of Hampton</b>	Phase I	2,429 sq. ft.	\$4.60	\$5,404,000	\$434,532 (res.) \$999,732 (non-res.) <b>\$1,434,264 (tot.)</b>
<b>City of Lynchburg</b>	Phase II	2,672 sq. ft.	\$4.00	\$2,550,000	
<b>City of Newport News</b>	Phase I	1,777 sq. ft.	\$5.45	\$10,855,000	\$514,824 (res.) \$1,619,040 (non-res.) <b>\$2,133,864 (tot.)</b>
<b>City of Richmond</b>	Phase II	1,425 sq. ft.	\$2.08 (Tier 1) \$3.75 (Tier 2) \$5.83 (Tier 3)	\$7,042,110	\$354,250 (res.) \$1,389,192 (non-res.) <b>\$1,743,442 (tot.)</b>
<b>City of Staunton</b>	N/A	3,400 sq. ft.	\$6.40	\$705,000	\$604,570 (res.) \$993,715 (non-res.) <b>\$1,538,285 (tot.)</b>
<b>Prince William County</b>	Phase I	1,000 sq. ft.	\$2.20 (single family) \$1.65 (condos) \$6.40 (non-res.)	\$5,175,669	\$207,816 (res.) \$3,378,588 (non-res.) <b>\$3,586,404 (tot.)</b>
<b>City of Suffolk</b>	Phase II	3,200 sq. ft.	\$5.24	\$5,288,671	\$494,988 (res.) \$864,411 (non-res.) <b>\$1,359,399 (tot.)</b>

Each of these communities (with the exception of Staunton) elected to develop and implement a stormwater utility, at least in part, to generate dedicated revenue for the stormwater management services necessary to comply with the terms of each locality's respective VSMP MS4 stormwater discharge permit. The Phase I permits were negotiated with the Virginia Department of Environmental Quality in the early 1990's for large MS4s established under the Clean Water Act. As Clean Water Act mandates and local stormwater responsibilities have grown in the interim, several other communities throughout the Commonwealth have completed initial stormwater utility feasibility studies. Several of these communities are subject to the terms of Virginia's small MS4

general permit (Phase II). The City of Lynchburg is the latest community in Virginia to develop and implement the framework of a stormwater utility.

Several other Virginia communities have undertaken feasibility studies but not yet implemented a stormwater utility, including the Cities of Falls Church and Roanoke, as well as Stafford County.

### **3.2 Rate Methodology Considerations**

Utility funding is based on an independent revenue stream that is dedicated to a specific purpose, whether for water supply, wastewater treatment, solid waste management, or stormwater management. In order to generate that independent revenue stream a methodology for calculating service fees must be identified. The selection of the most appropriate methodology is a key decision in the potential establishment of a stormwater utility for the City of Winchester. Although similarities exist among the service fee methodologies used by stormwater utilities, virtually every rate methodology is slightly different due to varying local circumstances (i.e. available data, land use patterns, etc.). Thus, the City should expect that the preferred rate methodology in Winchester may differ somewhat from those used in other communities that have established stormwater utilities.

The most appropriate methodology to fit a particular local program is dependent on a locality's specific circumstances since stormwater management program costs vary from place to place. Most stormwater user-fee supported programs require water quality protection, water quantity controls, regulatory oversight and programming, capital investment in facilities and equipment, administration, and operation and maintenance of the systems. Most also incur non-operating expenses such as provisions for delinquencies of payments and bad debt (uncollected fees). These costs should be considered in selecting the preferred billing methodology.

Although managing stormwater issues is becoming increasingly complicated, a suitable rate methodology does not have to be overly complex. A simple yet technically-sound rate methodology that can be easily explained to the community is preferential to one that poses intensive data requirements, is expensive to implement and maintain, and can be understood only by experts. Selection of a preferred option should be based on factors such as the availability of data to support various methodologies, the extent to which the fee can and should be assessed proportionally to different land uses based on their relative impacts to water quality and/or ability to pay, and local economic factors. The legal standards which apply to service fees are different in several respects than those applicable to general taxes, special assessments, impact fees, and other funding mechanisms. ***A service fee rate methodology must be fair and reasonable and, most importantly, must bear a substantial relationship to the cost of providing the specific services and facilities.*** Thus, in the case of stormwater management, a service fee methodology needs to reflect the demands imposed by residential and non-residential development on the local government's stormwater system and management programs. The preferred methodology must also pass legal muster; it cannot be considered arbitrary, capricious or discriminatory by design (or effect). Given these considerations, a detailed analysis of the various methodologies and rate structures is needed to select one that reflects these standards and the City's preferences. Once a preferred rate structure has

been identified, a detailed rate study can be prepared to provide the level of detail necessary for City Council action.

The rate methodologies examined below include impervious area, gross area and imperviousness, and gross area and intensity of development. The correlation between these variables and the need for drainage and other stormwater management services is supported by a significant body of engineering research. In general, impervious ground cover increases the rate and volume of runoff, while degrading the quality of that runoff, and is therefore a major element in each method. Variations in the simple impervious area method utilize gross property area as a key parameter while incorporating “coefficient of runoff” or “intensity of development” factors in the service fee calculation. The results are different service fees among similarly-sized properties that are developed to different densities. The impact as to who pays under the different rate methodologies also varies. As a general rule, methodologies which emphasize impervious area shift the cost of service allocation toward non-residential properties. Those that are based on gross property area usually shift costs toward more lightly (i.e. less densely or intensely) developed properties.

### **3.2.1 Impervious Area**

Many stormwater utilities in Virginia use a simplified measurement of the total amount of impervious area on a parcel to determine the billing unit, regardless of the total area of the parcel. A representative sample of single-family residential units (SFRs) is reviewed to determine the impervious area of a typical single-family parcel. This average area represents one Equivalent Residential Unit (ERU). A locality may establish a flat rate for all single-family dwelling lots up to a defined maximum total area or establish several tiers of rates on the basis of an analysis of single-family parcels within defined impervious area categories. Having such a tiered approach often improves the equitability of the bills sent to homeowners and is more appropriate where identifiable groupings are evident in the sample. At the same time, however, the tiered approach can also increase the administrative resources needed to implement and maintain the billing database.

For non-residential parcels, the impervious area is usually individually measured. Each non-SFR impervious area is divided by the impervious area of the typical SFR parcel (referred to as the Equivalent Residential Unit or ERU) to determine the number of ERUs to be billed to the parcel. The total monthly or annual costs of providing stormwater services divided by the total number of ERUs (i.e. the total impervious area) yields the locality’s cost per ERU. Once this average cost is determined, the locality can establish the rate per ERU necessary to recover some or all of its overall program costs. This method requires accurate data on each parcel, especially parcel boundaries and the total amount of impervious land cover on the parcel (planimetrics).

The advantages to this approach involve its relative simplicity. The relationship (or nexus) between impervious area and stormwater impact is relatively easy to explain to the public on the basis of “you pave/build, you pay.” Because an analysis of the pervious area or parcel size is not required, this approach requires the least amount of time to determine the total number of billing units. However, since the total imperviousness is not compared to the total area of the lot, this method is sometimes considered less equitable to property owners that have sufficient pervious area on their parcel to attenuate

at least some of the impact of their impervious area. However, the equity of this method can still be seen when evaluating the need to cover expenses not related to area, such as administration and regulatory compliance.

### **3.2.2 Gross Area and Intensity of Development**

This stormwater cost allocation system is based on the percentage of impervious area relative to an entire parcel's size as well as the parcel's overall size. All parcels (including vacant/undeveloped) are charged a fee on the basis of their intensity of development, which is defined as the percentage of impervious area of the parcel. Rates are calculated for several categories which are billed at a sliding scale. This methodology can be based on an estimate or measurement of development intensity on a given parcel. This methodology works effectively where a locality has vastly different development intensity throughout the jurisdiction (rural versus urban areas). In addition, this approach is often used when the intensity of development must be estimated due to insufficient data (i.e. when aerial photography is available but no GIS planimetric data has been established) or when available data is too coarse to accurately determine a parcel's impervious area. A flat rate for residential properties can also be used with this approach.

This method allows for modest changes in land use since minor increases in a parcel's impervious area are unlikely to change its category. This reduces the time required for staff to maintain the billable unit database. Unlike other methods, however, parcels are grouped into broader categories and billing may not reflect a parcel's proportions to its relative stormwater discharges. Furthermore, this method can be more difficult to implement than the Impervious Area method because parcel pervious areas and impervious areas need to be reviewed and updated. It is also more complicated to explain to customers than the Impervious Area method.

### **3.2.3 Gross Area**

In this scenario, calculation is made simply on the basis of parcel size. Typically a base residential parcel size is developed and multiples of that size are applied to non-residential parcels. This type of methodology is typically only used when the community lacks sufficient GIS data for an impervious cover methodology and cannot make any accurate estimates of development intensity. This methodology is also easiest to challenge, as the nexus between parcel size and stormwater runoff impact is hardest to defend.

### **3.2.4 Data Issues**

A preliminary analysis of the City's GIS planimetric data suggests that the quality and accuracy of the data is sufficient for the purposes of determining the total amount of impervious area present on a given parcel. The City possesses GIS polygon data layers for buildings, sidewalks, and parking lots which can be merged into a single data layer representing impervious land cover. When intersected with the parcel layer, the total amount of impervious area on each parcel can be calculated. Nevertheless, several issues were noted that will need to be addressed before a preferred rate methodology can be implemented:

- 1) The parcel data contains topological errors at the boundaries of certain polygons, creating overlap between adjacent parcels. When the parcel layer is intersected with the impervious land cover data, new polygons are created that correspond to the area of overlap between these adjacent parcels. These non-existent parcels tend to exhibit high imperviousness since they are often completely covered by a parking area, sidewalk or building footprint.
- 2) The parcel data layer contains attribute table errors involving the land use classification of certain parcels. For instance, certain parcels classified as residential (parcels assigned a CAMRA land use code value of either 1 or 3) appear to contain non-residential land uses. These parcels will need to be identified and corrected prior to calculation of the ERU so that these anomalies do not skew the average impervious area measured for single-family residential parcels.

#### **4. Stormwater Utility Rate Base and Rate Methodology**

Examination of the stormwater utility rate base involves answering the primary question of “who should pay” into the stormwater utility, as well as additional, ancillary questions about the need to provide any special considerations to certain designated rate payers. From an equity standpoint, the initial premise of any enterprise funded entity is that everyone receiving the service provided by the utility pays. For example, as an enterprise fund, a stormwater utility may charge properties that may have a significant impact on stormwater, such as places of worship, for which real estate taxes are not collected. Large church buildings and parking lots may generate significant amounts of stormwater runoff. Programs funded through real estate tax-sponsored revenue collect no real estate taxes from a church, but do have to provide a certain level of stormwater management service. Under a stormwater utility, the church would be charged just as any other parcel, thus providing revenue to the stormwater utility in return for service provision comparable to the impact the church property has on the stormwater management system. To offset potential challenges, communities can also elect to assist churches and other non-residential properties with an offset of stormwater utility expenses through crediting.

Additional policy decisions regarding the community rate base must be addressed as well. For example, the community needs to identify whether or not there is any compelling evidence as to why one constituency should shoulder a greater burden than another (i.e. residential, non-residential, commercial, industrial, etc.). Rate base decisions can shift a greater proportional burden to residential or non-residential rate payers depending on the size of the billing unit. As such, communities need to think about the revenue burden of each group, and plan accordingly.

Identification of the rate base may also be impacted by the rate methodology chosen to establish the base billing unit. As described in more detail above, the establishment of the residential billing unit, which is typically the base unit against which non-residential bills are calculated, is the key component of the rate structure. The simplest formula is to develop and utilize a single residential billing unit (ERU) and simply apply multiples of the ERU to non-residential property. In some jurisdictions, because of the wide variety of residential housing stock and the size of parcels, a tiered residential rate is developed. However, the residential unit is the typical base measuring unit for non-residential

parcels. Typically, the ERU is developed through the completion of a survey of a variety of different residential properties, including condominiums and townhouses, to establish an average amount of impervious cover on the parcel. That average is then the basis of the residential billing unit. Alternatives for the development of the non-residential calculation of stormwater utility fees typically depend on the quality of the community's geographic information system (GIS) data.

#### **4.1 Potential Rate Base in the City of Winchester**

In order to assist in framing the rate base discussion as it pertains to Winchester, a preliminary, two-part analysis of the City's GIS planimetric data was conducted to 1) identify the City's current ratio of single family residential (SFR) and non-single family residential (NSFR) parcels and evaluate the impact that this ratio may have on the predicate question of "who pays?" as outlined above, and 2) to evaluate which parcels may constitute the City's largest rate payers in a stormwater utility assuming an impervious cover methodology.

##### **4.1.1 SFR and NSFR Parcels in Winchester**

Utilizing the City's CAMRA Land Use Codes provided by the Commissioner of the Revenue's office to establish residential and non-residential land uses in the City, this preliminary analysis demonstrated that approximately 80% of the City's parcels are some form of residential use. In land area, these parcels only account for approximately 37% of the City's overall acreage. As a general rule of thumb, in a stormwater utility, usually about two-thirds of a community's parcel inventory consists of residential parcels, but those residential parcels usually generate only about one third of the potential revenue of a stormwater utility in general. The non-residential parcels, while perhaps only a third of the communities' parcel inventory, will typically generate roughly two thirds of the communities' stormwater utility fee revenue. In testing this rule of thumb, Winchester's calculations appear fairly close to average for communities with a similar makeup, age, and development history.

This analysis also informs another key policy decision that warrants further study in Winchester should the City choose to proceed with the development of a stormwater utility, namely: is there a compelling argument as to why a particular parcel class (SFR or NSFR) should bear more of the burden for funding the City's stormwater management needs than the other classification? The size of the eventual ERU can influence the funding relationship to a degree. The smaller the ERU, the greater the burden on NSFR parcels as they will likely be responsible for more ERUs in the equation. A larger ERU reduces the NSFR obligation and places a bit more of the burden for funding on SFR parcels.

##### **4.1.2 Identification of Potential Top Rate Payers**

To further evaluate the potential rate base, using an impervious cover rate methodology, a simple impervious cover analysis of the City's parcel data was developed to identify some of the City's biggest potential rate payers. The City maintains GIS polygon layers for the following types of impervious areas:

- Buildings

- Parking Lots
- Sidewalks

These GIS layers were first merged in ArcGIS to obtain a single shapefile representing all impervious areas in the City. This resulting shapefile contained a separate polygon for each contiguous impervious area. Once merged, the shapefile was intersected with the parcel layer in order to compare the parcel area to the impervious area and subsequently dissolved on a parcel-by-parcel basis to determine the impervious area on each parcel.

An analysis of the results yields the ten largest parcels in terms of impervious area, as well as how many ERUs each property would generate based on two hypothetical ERU calculations of 1,500 square feet impervious and 2,000 square feet impervious. This analysis is simply intended to demonstrate the impact that the ERU calculation itself can have on the community rate base.

IMPERVIOUS AREA (ft <sup>2</sup> )	PARCEL AREA (ft <sup>2</sup> )	PERCENT IMP	MLNAM	MDESC2	# OF ERUs (ERU = 1500 sq ft)	# OF ERUs (ERU = 2000 sq ft)
1,836,860	6,697,855	27.42	WINCHESTER MEDICAL CENTER INC	N S 1830-1890 AMHERST ST	1,225	918
1,277,860	2,323,492	54.99	MAYFLOWER APPLE BLOSSOM LP	1850 APPLE BLOSSOM DRIVE	852	639
1,262,320	1,872,695	67.41	RUBBERMAID COMMERCIAL PROD INC	E S 3124 VALLEY AVENUE	842	632
868,911	1,139,320	76.27	DDRM APPLE BLOSSOM CORNERS LLC	E S 1950-2198 S PLEASANT VALLEY RD	579	434
742,945	1,957,408	37.96	SHENANDOAH UNIVERSITY	E S 1460 UNIVERSITY DRIVE	495	371
728,441	2,924,954	24.90	NATIONAL FRUIT PROD CO INC	W S 551-799 FAIRMONT AVENUE	486	364
704,577	1,069,121	65.90	WAL-MART REALTY COMPANY	E S 2350 SOUTH PLEASANT VALLEY ROAD	470	352
684,767	836,234	81.89	WALTER ENTERPRISES LC	E S 2200-2290 VALLEY AVENUE	457	342
638,370	1,737,937	36.73	FEDERAL MOGUL CORP	E S 2410 PAPERMILL ROAD	426	319
615,024	812,418	75.70	P D K WINCHESTER LC	S S 2290-2340 LEGGE BLVD	410	308

The list above shows NSFR parcels in Winchester that contain the most impervious cover, including the Winchester Medical Center, a Rubbermaid facility, Apple Blossom Mall, Shenandoah University, and a Wal-Mart store, among the parcels identified.

Should the City choose to develop and implement a stormwater utility, a more detailed data analysis will be required to ensure that policy decisions related to included impervious cover have been addressed. In addition, in order to evaluate potential rate structures, a sample of SFR parcels will need to be evaluated to better gauge the potential ERU using an impervious cover methodology, should such a rate methodology be chosen. Also, it should be noted that in the event the City develops a stormwater utility, the City will likely evaluate a number of potential stormwater utility fee credits that may be available to City rate payers that could offset their stormwater utility fee burden to some degree. Analysis of policy decisions related to impervious cover, SFR evaluations, and credit policy development is beyond the scope of this preliminary analysis.

# CITY OF WINCHESTER, VIRGINIA

## PROPOSED CITY COUNCIL AGENDA ITEM

**CITY COUNCIL/COMMITTEE MEETING OF:** February 19, 2013 **CUT OFF DATE:** \_\_\_\_\_

**RESOLUTION** \_\_ **ORDINANCE** \_\_ **PUBLIC HEARING** \_\_

**ITEM TITLE:** Proposed FY14 Operating Budget for OWRF

**STAFF RECOMMENDATION:** Approve a motion providing preliminary approval of the proposed FY14 operating budget for the OWRF, subject to adopting the FY14 Appropriations Ordinance.

**PUBLIC NOTICE AND HEARING:** NA

**ADVISORY BOARD RECOMMENDATION:** NA

**FUNDING DATA:** See attached.

**INSURANCE:** NA

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance		_____	<u>2-12-13</u>
2. City Attorney		_____	<u>2/13/2013</u>
3. City Manager		_____	<u>2-13-13</u>
4. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature:		_____	<u>2/14/13</u> Date



**APPROVED AS TO FORM:**

CITY ATTORNEY

2/13/2013

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Perry Eisenach, Public Services Director  
**Date:** February 11, 2013  
**Re:** Proposed FY14 Operating Budget for Opequon Water Reclamation Facility

**THE ISSUE:** Approval of the proposed FY14 operating budget for the Opequon Water Reclamation Facility (wastewater treatment plant).

**RELATIONSHIP TO STRATEGIC PLAN:** NA

**BACKGROUND:** The City of Winchester is responsible for operating the Opequon Water Reclamation Facility (OWRF) as per the 1987 Operations Agreement between the City and the Frederick-Winchester Service Authority (FWSA). This agreement stipulates that FWSA reimburses the City for the actual operating costs.

The proposed FY14 budget is being presented to City Council now and in advance of the remaining City budget so that it can be forwarded to the FWSA at their request to allow them adequate time to adopt their budget and user rates for FY14. Formal approval of the proposed OWRF budget is not being requested at this time. Formal approval of this budget will be part of the entire City FY14 Appropriations Ordinance that will be adopted by Council before the end of June.

**BUDGET IMPACT:** The proposed operating budget for FY14, as detailed on the attachment, is \$4,068,000. This is a 1.5% increase over the current year budget of \$4,008,000 and is due solely to the estimated 16.7% increase in the sludge tipping fee at the landfill.

The other major change in this proposed budget is staff's recommendation to eliminate the part-time salaries in the budget (\$40,000) and add one additional full-time operator. This additional position will also allow the amount of budgeted overtime at the facility to drop from \$70,000 to \$50,000 (see attached justification sheet). The net annual savings of this proposal is approximately \$7,500.

**OPTIONS:** Either approve the proposed budget as presented, or make modifications to the proposed budget.

**RECOMMENDATIONS:** Approve, by motion, the proposed FY14 budget as presented, subject to adopting the Citywide FY14 Appropriations Ordinance later this spring.

# CITY OF WINCHESTER

## REQUEST FOR CLASSIFICATION ACTION

DEPARTMENT: FWSA (Public Services)

DATE OF REQUEST: 2/11/13

REQUEST MADE BY: Perry Eisenach and John Merriner

PERSONNEL ACTION REQUESTED: (Check one)

- Establish new position: Operator III
- Reclassify existing position from: \_\_\_\_\_
- to: \_\_\_\_\_
- Delete position: \_\_\_\_\_ (title)

JOB STATUS: (check all that apply)

- Classified
- Temporary/seasonal
- Full time
- Part time (number of hours worked per week): \_\_\_\_\_

JUSTIFICATION: (complete all)

- State the reason for classification action and the years to be budgeted: (attach additional documentation if needed) The Opequon Water Reclamation Facility is a 24-hour per day, 365 days per year operation. We utilize three, 8-hour shifts every day. For safety purposes, it is necessary to have a minimum of 2 operators present during every shift. Over the past three years, the facility has averaged over 4,000 hours per year of overtime due to the necessity to maintain the minimum of 2 employees per shift when the scheduled employees are on vacation or sick, and also due to holidays.

We are proposing the addition of an Operator position at the facility that would be used as necessary on all three shifts to cover for employees that are on vacation or sick. We believe the addition of this position will cut the overtime of the facility approximately in half. The addition of this position will also allow the existing part-time salaries at the facility (\$40,000) to be eliminated and allow for a net budget savings of approximately \$7,500 per year. In addition, this position will greatly assist in staffing the facility and reducing the need for employees to be required to work overtime which will help improve employee morale.

- State the absolute minimum qualifications that an applicant should bring with him/her to satisfactorily perform this job. Please see attached Operator III Job Description
- Sketch an organizational chart that includes this position.
- 
- Projected salary cost: \$35,630 Projected benefit cost: \$12,500

*RETURN TO THE ADMINISTRATION DEPARTMENT*

**City of Winchester**  
**Proposed Operating Budget for Opequon Water Reclamation Facility (OWRF)**  
**FY 2014**

Draft: 2/11/13

	FY 2011 Actual	FY 2012 Actual	Current FY 2013 Budget	Proposed FY 2014 Budget	Changes from FY 2013	Comments
<b>Personnel</b>						
11-01 Regular Salaries	\$ 648,214	\$ 746,306	\$ 787,140	\$ 833,690	\$ 46,550	Add one full time operator in lieu of eliminating part-time positions
12-01 Overtime	\$ 86,496	\$ 99,027	\$ 70,000	\$ 50,000	\$ (20,000)	Decrease due to adding one additional full-time operator
13-01 Classified - Regular	\$ -	\$ -	\$ -	\$ -	\$ -	
17-01 Non-Classified Regular (Part-time)	\$ 2,922	\$ -	\$ 40,000	\$ -	\$ (40,000)	Eliminate Part-time positions
19-01 College Incentive	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Subtotal - Personnel</b>	<b>\$ 737,632</b>	<b>\$ 845,333</b>	<b>\$ 897,140</b>	<b>\$ 883,690</b>	<b>\$ (13,450)</b>	
<b>Benefits</b>						
21-10 FICA	\$ 54,971	\$ 62,917	\$ 65,916	\$ 67,232	\$ 1,316	
22-20 VRS-Employer	\$ 84,851	\$ 92,930	\$ 97,577	\$ 103,485	\$ 5,908	
23-11 Retirees	\$ -	\$ -	\$ 8,000	\$ -	\$ (8,000)	
24-20 Insurance-Employer	\$ 1,716	\$ 2,270	\$ 10,370	\$ 9,915	\$ (455)	
26-10 SUTA	\$ -	\$ -	\$ -	\$ -	\$ -	
27-20 Worker's Compensation	\$ 15,490	\$ 17,728	\$ 19,846	\$ 22,809	\$ 2,963	
28-50 Flex Benefits - Admin Fee	\$ 892	\$ 978	\$ 979	\$ 1,541	\$ 562	
28-51 Flex Benefits - Employees	\$ 116,370	\$ 144,112	\$ 138,373	\$ 150,862	\$ 12,489	
29-10 VRS Health Insurance Credit	\$ 920	\$ 1,061	\$ 1,099	\$ 1,166	\$ 67	
<b>Subtotal - Benefits</b>	<b>\$ 275,210</b>	<b>\$ 321,996</b>	<b>\$ 342,160</b>	<b>\$ 357,010</b>	<b>\$ 14,850</b>	
<b>Contractual Services</b>						
31-10 Medical, Dental, Hospital	\$ 600	\$ 4,079	\$ 1,200	\$ 5,000	\$ 3,800	Based on actual expenditures
31-70 Other Professional Services	\$ -	\$ 1,125	\$ -	\$ -	\$ -	
31-77 Training/Education	\$ 4,368	\$ 6,782	\$ 5,000	\$ 5,000	\$ -	
32-15 Employment Agencies	\$ 66,063	\$ 60,338	\$ -	\$ -	\$ -	
33-10 Facility Repairs and Maintenance	\$ 236,041	\$ 293,630	\$ 255,000	\$ 258,000	\$ 3,000	Continued high maintenance costs for sludge pumps and HVAC system.
33-11 Outside Property Maintenance	\$ 31,868	\$ 15,360	\$ 5,000	\$ 5,000	\$ -	
33-15 Vehicle Repairs and Maintenance	\$ 16,542	\$ 20,784	\$ 43,700	\$ 43,700	\$ -	
33-20 Contracts	\$ 17,724	\$ 17,088	\$ 15,000	\$ 15,000	\$ -	
33-23 Mowing and Trimming	\$ 32,570	\$ 31,292	\$ 13,000	\$ 15,000	\$ 2,000	
33-25 Computer Hardware/Software	\$ -	\$ -	\$ -	\$ -	\$ -	

35-01	Printing & Binding	\$	672	\$	-	\$	500	\$	500	\$	-	
36-01	Local Media	\$	2,249	\$	1,636	\$	2,000	\$	2,000	\$	-	
37-01	Laundry and Dry Cleaning	\$	17,005	\$	13,454	\$	14,000	\$	4,000	\$	(10,000)	Decrease due to purchasing uniforms instead of renting.
38-10	Tuition Paid	\$	-	\$	-	\$	-	\$	-	\$	-	
38-44	Sanitary Landfill - Disposal Fees	\$	338,399	\$	334,388	\$	350,000	\$	410,000	\$	60,000	Projected 16.7% increase in landfill disposal rate (from \$24 to \$28/ton), plus an additional \$10k due to Kraft.
39-20	Refuse Service	\$	14,628	\$	16,741	\$	15,000	\$	15,000	\$	-	
39-22	Lab Services	\$	19,977	\$	21,264	\$	20,000	\$	20,000	\$	-	
	<b>Subtotal - Contractual Services</b>	\$	<b>798,706</b>	\$	<b>868,664</b>	\$	<b>769,400</b>	\$	<b>828,200</b>	\$	<b>58,800</b>	
	<b>Other Operational</b>											
42-03	Equipment Maintenance/Fuel	\$	20,010	\$	26,793	\$	20,000	\$	24,000	\$	4,000	Higher cost of fuel
42-04	Equipment - Parts	\$	921	\$	2,195	\$	1,000	\$	1,000	\$	-	
42-05	Equipment - Labor	\$	907	\$	2,765	\$	2,000	\$	2,000	\$	-	
51-10	Electrical	\$	568,787	\$	524,123	\$	610,000	\$	610,000	\$	-	
51-20	Heating	\$	62,457	\$	43,935	\$	50,000	\$	50,000	\$	-	
52-10	Postal Services	\$	1,946	\$	1,916	\$	3,200	\$	3,200	\$	-	
52-30	Telecommunications	\$	13,874	\$	16,448	\$	15,500	\$	15,500	\$	-	
53-05	Motor Vehicle Insurance	\$	2,537	\$	2,596	\$	3,500	\$	3,500	\$	-	
53-08	General Liability	\$	7,112	\$	6,175	\$	8,000	\$	8,000	\$	-	
54-10	Equipment	\$	417	\$	1,965	\$	1,500	\$	1,500	\$	-	
54-11	Office Equipment	\$	1,312	\$	1,700	\$	2,000	\$	2,000	\$	-	
55-10	Mileage/Transportation	\$	200	\$	240	\$	500	\$	500	\$	-	
55-40	Conferences/Education	\$	1,434	\$	6,557	\$	10,000	\$	10,000	\$	-	
58-10	Dues/Memberships	\$	5,175	\$	9,796	\$	7,000	\$	7,000	\$	-	
58-72	Misc. Charges	\$	983	\$	4,384	\$	-	\$	-	\$	-	
58-74	Background Checks	\$	-	\$	345	\$	-	\$	-	\$	-	
60-01	Office Supplies	\$	1,399	\$	1,421	\$	3,200	\$	2,000	\$	(1,200)	Decrease based on actual expenditures
60-02	Food & Food Service	\$	2,444	\$	3,276	\$	2,600	\$	2,600	\$	-	
60-03	Landscaping Supplies	\$	87	\$	323	\$	500	\$	500	\$	-	
60-04	Lab Supplies	\$	43,529	\$	45,441	\$	43,000	\$	45,000	\$	2,000	Increase based on actual expenditures
60-05	Laundry and Janitorial	\$	10,388	\$	16,239	\$	13,000	\$	15,000	\$	2,000	Increase based on actual expenditures
60-07	Supplies for Facility Maintenance	\$	247,434	\$	289,665	\$	281,000	\$	266,000	\$	(15,000)	
60-08	Vehicle and Equipment Fuels	\$	5,492	\$	3,782	\$	5,000	\$	5,000	\$	-	
60-09	Vehicle and Equipment Supplies	\$	3,150	\$	1,128	\$	3,000	\$	3,000	\$	-	
60-11	Uniforms & Apparel	\$	7,142	\$	6,268	\$	7,000	\$	7,000	\$	-	
60-12	Books/Subscriptions	\$	825	\$	151	\$	300	\$	300	\$	-	
60-14	Other Operating Supplies	\$	4,462	\$	2,388	\$	4,000	\$	4,000	\$	-	
60-23	Chemicals	\$	772,742	\$	708,360	\$	900,000	\$	900,000	\$	-	
60-26	Computer Hardware/Software	\$	430	\$	9,675	\$	2,000	\$	10,000	\$	8,000	Replace four computers.
60-39	Awards	\$	80	\$	-	\$	500	\$	500	\$	-	
81-01	Machinery & Equipment	\$	-	\$	66,865	\$	-	\$	-	\$	-	
	<b>Subtotal - Other Operational</b>	\$	<b>1,787,676</b>	\$	<b>1,806,915</b>	\$	<b>1,999,300</b>	\$	<b>1,999,100</b>	\$	<b>(200)</b>	



**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** February 19, 2013 **CUT OFF DATE:** \_\_\_\_\_

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

**ITEM TITLE:** Modification of Frederick-Winchester Service Authority Articles of Incorporation regarding compensation.

**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	<u>  <i>DS</i>  </u>	<u>                    </u>	<u>  2-12-13  </u>
2. City Attorney	<u>  <i>AW</i>  </u>	<u>                    </u>	<u>  2/13/2013  </u>
3. City Manager	<u>  <i>[Signature]</i>  </u>	<u>                    </u>	<u>  2-13-13  </u>
4. Clerk of Council	<u>                    </u>	<u>                    </u>	<u>                    </u>
Initiating Department Director's Signature:	<u>  <i>[Signature]</i>  </u>	<u>                    </u>	<u>  2/6/13  </u> Date



APPROVED AS TO FORM:

  *[Signature]*    
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Perry Eisenach, Public Services Director  
**Date:** February 6, 2013  
**Re:** Modification of Frederick-Winchester Service Authority (FWSA) Articles of Incorporation Regarding Compensation

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**THE ISSUE:** Modification of Frederick-Winchester Service Authority (FWSA) Articles of Incorporation Regarding Compensation

**RELATIONSHIP TO STRATEGIC PLAN:** NA

**BACKGROUND:** At the request of the FWSA Board, City Council approved a concurrent resolution in 2010 to modify the Articles of Incorporation of the Service Authority so that instead of the joint City-County appointee to the Board being paid \$1,800 per year for their service, the Chairman of the Board will receive \$2,400 per year as compensation for their service. The County did not take action on this resolution at that time. The County did make some very minor revisions to the concurrent resolution and they approved it in December 2012. The FWSA is requesting that City Council now approve the revised concurrent resolution.

**BUDGET IMPACT:** This will have no impact on the City's budget.

**OPTIONS:** Either approve or not approve the revised concurrent resolution.

**RECOMMENDATIONS:** Approve the revised concurrent resolution.

**ARTICLES OF AMENDMENT  
OF FREDERICK-WINCHESTER SERVICE AUTHORITY**

**CONCURRENT RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF WINCHESTER, VIRGINIA AND THE BOARD OF SUPERVISORS OF  
FREDERICK COUNTY, VIRGINIA TO AMEND THE ARTICLES OF  
INCORPORATION OF THE FREDERICK-WINCHESTER SERVICE  
AUTHORITY**

**WHEREAS**, by Concurrent Resolution of the City of Winchester (the “**City**”) and the Board of Supervisors of Frederick County (the “**County**”) and a Certificate of Incorporation issued by the State Corporation Commission pursuant to the Virginia Water and Waste Authorities Act (the “**Act**”), the Frederick-Winchester Service Authority (the “**Authority**”) was incorporated as a public body politic and corporate in 1974; and,

**WHEREAS**, by a Concurrent Resolution of the Common Council of the City and the Board of Supervisors of the County and a Certificate of Articles of Amendment issued by the Virginia State Corporation Commission, the Articles of Incorporation of the Authority were amended in 1983, 1985, 1987, 1995 and 2008; and,

**WHEREAS**, the City and the County desire to amend the amended and restated Articles of Incorporation dated August 26, 1987, as amended by Articles of Amendment dated April 13, 1995 as set forth hereinafter.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Winchester, Virginia and the Board of Supervisors of Frederick County, Virginia, in separate meetings assembled, that the Articles of Incorporation of the Frederick-Winchester Service Authority be amended in the following manner:

The following sentence in Paragraph (f) of the Amended Articles of Incorporation dated April 13, 1995 is deleted:

“Each member shall serve without compensation, except that the member appointed by concurrent action may be compensated not more than One Thousand Eight Hundred Dollars (\$1,800.00) per annum.”

The following sentence is substituted in the place and stead of the sentence deleted above:

“Each member of the Authority Board shall serve without compensation, except that the Chairman elected by the members of Authority Board may be compensated not more than Two Thousand, Four Hundred Dollars (\$2,400.00) per annum, or such greater amount as may be determined by Resolution of the governing body or bodies which are Members of the Authority.”

This Amendment does not effect a restatement of the Articles of Incorporation.

**NOW, THEREFORE, BE IT RESOLVED** that the Articles of Incorporation, as amended in 1983, 1985, 1987, 1995 and 2008, shall in all other respects remain unchanged.

These Articles of Amendment were approved by a Concurrent Resolution of the Common Council of the City of Winchester, Virginia, and the Board of Supervisors of Frederick County, Virginia, in separate meetings assembled, adopted by the City of Winchester, Virginia on \_\_\_\_\_, 20\_\_\_\_, following a public hearing held

\_\_\_\_\_, 20\_\_\_\_, and adopted by the County of Frederick, Virginia on Dec. 12,  
2012, following a public hearing held on Dec. 12, 2012.

**IN WITNESS WHEREOF**, the Common Council of the City of Winchester,  
Virginia, and the Board of Supervisors of Frederick County, Virginia, have caused these  
Articles of Amendment to be executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

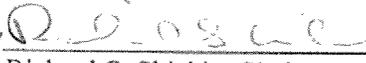
CITY OF WINCHESTER, VIRGINIA

By \_\_\_\_\_  
John Willingham, President of Common Council

(SEAL)  
Attest:

By: \_\_\_\_\_  
Kari VanDiest, Deputy Clerk  
of Common Council

FREDERICK COUNTY, VIRGINIA

By   
Richard C. Shickle, Chairman  
Board of Supervisors

(SEAL)  
Attest:

By:   
John R. Riley, Jr., Clerk  
Board of Supervisors

MLB/smb  
Forms/Service Authority Resolution #3  
11/1/12

**ARTICLES OF AMENDMENT  
OF  
FREDERICK-WINCHESTER SERVICE AUTHORITY**

The following sentence in Paragraph (f) of the amended and restated Articles of Incorporation dated August 26, 1987, as amended by Articles of Amendment dated April 13, 1995 is deleted:

“Each member shall serve without compensation, except that the member appointed by concurrent action may be compensated not more than One Thousand Eight Hundred Dollars (\$1,800.00) per annum.”

The following sentence is substituted in the place and stead of the sentence deleted above:

“Each member of the Authority Board shall serve without compensation, except that the Chairman elected by the members of Authority Board may be compensated not more than Two Thousand, Four Hundred Dollars (\$2,400.00) per annum, or such greater amount as may be determined by Resolution of the governing body or bodies which are Members of the Authority.”

This Amendment does not effect a restatement of the Articles of Incorporation.

BE IT FURTHER RESOLVED that the Articles of Incorporation, as amended in 1983, 1985, 1987, 1995 and 2008 shall in all other respects remain unchanged.

IN WITNESS WHEREOF, the Common Council of the City of Winchester, Virginia, and the Board of Supervisors of Frederick County, Virginia, have caused these

Articles of Incorporated to be executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

  
\_\_\_\_\_  
John R. Riley, Jr., Clerk  
Board of Supervisors

  
\_\_\_\_\_  
Richard C. Shickle, Chairman  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
Kari VanDiest, Deputy Clerk  
of Common Council

\_\_\_\_\_  
John Willingham, President  
President of Common Council

MLB/smb  
Forms\Service Authority Articles of Amendment #2  
11/1/12

Incident Types	Structure Fire	Fire Other	ALS 1	ALS 2	BLS	PT Refusal	TOTALS	Mon.% Up/Dn
Fire	5	91					96	
EMS			160	2	137	21	349	
<b>TOT0AL Incident Types</b>							<b>445</b>	<b>-.03%</b>

City Property Loss vs. Property Saved	
Fire Loss	Fire Saved
<b>\$100.00</b>	<b>\$174,900.00</b>
Other Property Loss	Other Property Saved
<b>0</b>	<b>0</b>

Resuscitation Efforts	
CPR Initiated <b>2</b>	Saved <b>0</b>
Respiratory Arrest <b>0</b>	Saved <b>0</b>

Station Logbook	Number
Friendship Fire Station 1	<b>174</b>
Rouses Fire Station 2	<b>73</b>
Shawnee Fire Station 4	<b>151</b>
South End Fire Station 5	<b>196</b>

Mutual Aid	Given	Received
	<b>50</b>	<b>13</b>

Casualties	Number
Fire Service	<b>1</b>
Civilian	<b>0</b>

Total Training Hours Logged
<b>935.02</b>

Public Education	Number		Number	
Smoke Detectors Installed	<b>0</b>			
Car Seats Installed	<b>13</b>			
Public Education	# of Children	<b>2</b>	# of Adults	<b>17</b>

EMS Revenue Recovery
Revenue increase of <b>12%</b> over last year for this time period

Fire and Life Safety Division	
Plan Reviews	<b>2/\$75.99</b>
Fire Safety inspections/follow-ups	<b>10/18</b>
Sprinkler/Alarm/Suppression/Site Inspections	<b>2/3/1/1</b>
Other Permit Related Inspections	<b>3</b>
Fire Marshal Investigations	<b>0</b>



**A Virginia Accredited Law Enforcement Agency**

Timbrook Public Safety Center  
231 East Piccadilly Street  
Winchester, VA 22601

Telephone: (540) 545-4700  
FAX: (540) 542-1314  
Website: www.winchesterva.gov

**WINCHESTER POLICE DEPARTMENT  
MONTHLY COUNCIL REPORT  
January 2013**

*5 YEAR TREND FOR MAJOR CRIMES- January*

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>THEFT</b>	65	76	51	55	Unavailable
<b>GRAND THEFT</b>	21	16	19	13	At this
<b>MVT</b>	1	3	2	0	Time
<b>ROBBERY</b>	2	2	6	3	
<b>RAPE</b>	2	0	0	1	
<b>B&amp;E</b>	11	7	15	13	

*5 YEAR TREND ENFORCEMENT -Enforcement for December-5 year trend*

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Felony Arrests	18	13	32	11	25
Misdemeanor Arrests	77	148	117	152	148
Legal Document - Felony	78	13	29	50	35
Legal Document - Misdemeanor	115	159	117	166	146
DUI Arrests	19	32	26	31	26
Incident Reports	298	280	286	302	290
Field Contacts Documented	0	9	54	33	36
Speeding - Radar	39	117	144	62	101
Speeding - Non Radar	2	3	1	1	1
Traffic Violations	262	325	273	199	235
Vehicle Crash Investigations	83	80	64	56	26
Parking Violations	111	265	122	113	105

Our annual report for 2011 can be found on our website at [www.winchesterpolice.org/forms/index.html](http://www.winchesterpolice.org/forms/index.html) and up-to-date crime maps are available at [www.crimereports.com](http://www.crimereports.com).