

City Council Work Session

Tuesday, February 26, 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 National Historic District Presentation – EHT Traceries, Inc. (pages 3-6)

4.0 Items for Discussion:

4.1 O-2013-07: AN ORDINANCE TO CONDITIONALLY REZONE 7.74 ACRES OF LAND AT 940 CEDAR CREEK GRADE FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY RZ-12-405 - Tim Youmans (pages 7-35)

4.2 R-2013-13: Resolution – Approval to rename Frontage Road to Mall Boulevard – Tim Youmans (pages 36-38)

4.3 Outside Agencies Funding Policy – Dale Iman (pages 39-42)

4.4 Tax Rate Discussion – Mary Blowe (pages 43-47)

4.5 CIP Financing Plan – Mary Blowe (pages 48-53)

4.6 CU-13-15: Conditional Use Permit – Request of Benjamin Pelletier on behalf of Shenandoah Personal Communications, LLC for a conditional use permit to upgrade existing telecommunications facilities with additional antennas and a microwave dish at 799 Fairmont Avenue zoned Limited Industrial (M-1) District. – Aaron Grisdale (pages 54-62)

4.7 O-2013-08: AN ORDINANCE TO AMEND SECTIONS 14-5, 18-7, 18-15, 21-3, AND 23-8 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ADMINISTRATIVE REVIEW, SPECIAL REGULATIONS PERTAINING TO THE PRIMARY & SECONDARY DOWNTOWN ASSESSMENT DISTRICTS, OBSTRUCTION OF RIGHT-OF-WAY, CIVIL PENALTIES AND FEES **TA-13-35** – Aaron Grisdale (pages 63-75)

- 4.8 O-2013-09:** AN ORDINANCE TO REPEAL CHAPTER 26, ARTICLE III, DIVISION 2 OF THE WINCHESTER CITY CODE PERTAINING TO SIDEWALK CAFES – Aaron Grisdale (pages 76-84)
- 4.9 O-2013-05:** AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 2-4, 2-28, AND 2-29 OF THE WINCHESTER CITY CODE PERTAINING TO ELECTION AND REMOVAL OF COUNCIL-ELECT OFFICERS – Anthony Williams (pages 85-92)
- 4.10 R-2013-11:** Resolution – Approval to execute the Clinical Affiliation Agreement and necessary documents between Lord Fairfax Community College and the Winchester Fire & Rescue Department – Eddie McClellan (pages 93-109)
- 4.11 R-2013-12:** Resolution – Authorization to apply for a Local Government Challenge Grant to the Virginia Commission for the Arts – Jennifer Bell (pages 110-120)

5.0 Report of Liaisons

6.0 Monthly Reports

- 6.1** Finance Department (page 121-133)

7.0 Adjourn

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: February 20, 2013
Re: National Historic District Presentation & Council Direction

THE ISSUE:

Representatives from E.H.T. Traceries will give a brief presentation on the recently completed study of possible expansion areas for the National Historic District. They will also discuss the pending change to the period of significance. Council would need to decide if it wants to initiate a nomination request for expanding the National District. The change to Period of Significance occurs automatically.

RELATIONSHIP TO STRATEGIC PLAN:

High Priority- National Historic District: Direction

BACKGROUND:

The City received a CLG grant through the Va Dept of Historic Resources (DHR) to study areas outside of the current boundaries of the Winchester National Historic District. The City partnered with PHW to provide a local match on the grant. E.H.T. Traceries was hired as a consultant to survey the structures within the study areas. They also had completed an update of the existing National District survey originally done in 1976. The consultant was also asked to advise as to an updated Period of Significance date which is important in determining whether or not a structure is eligible for state and federal tax credits.

BUDGET IMPACT:

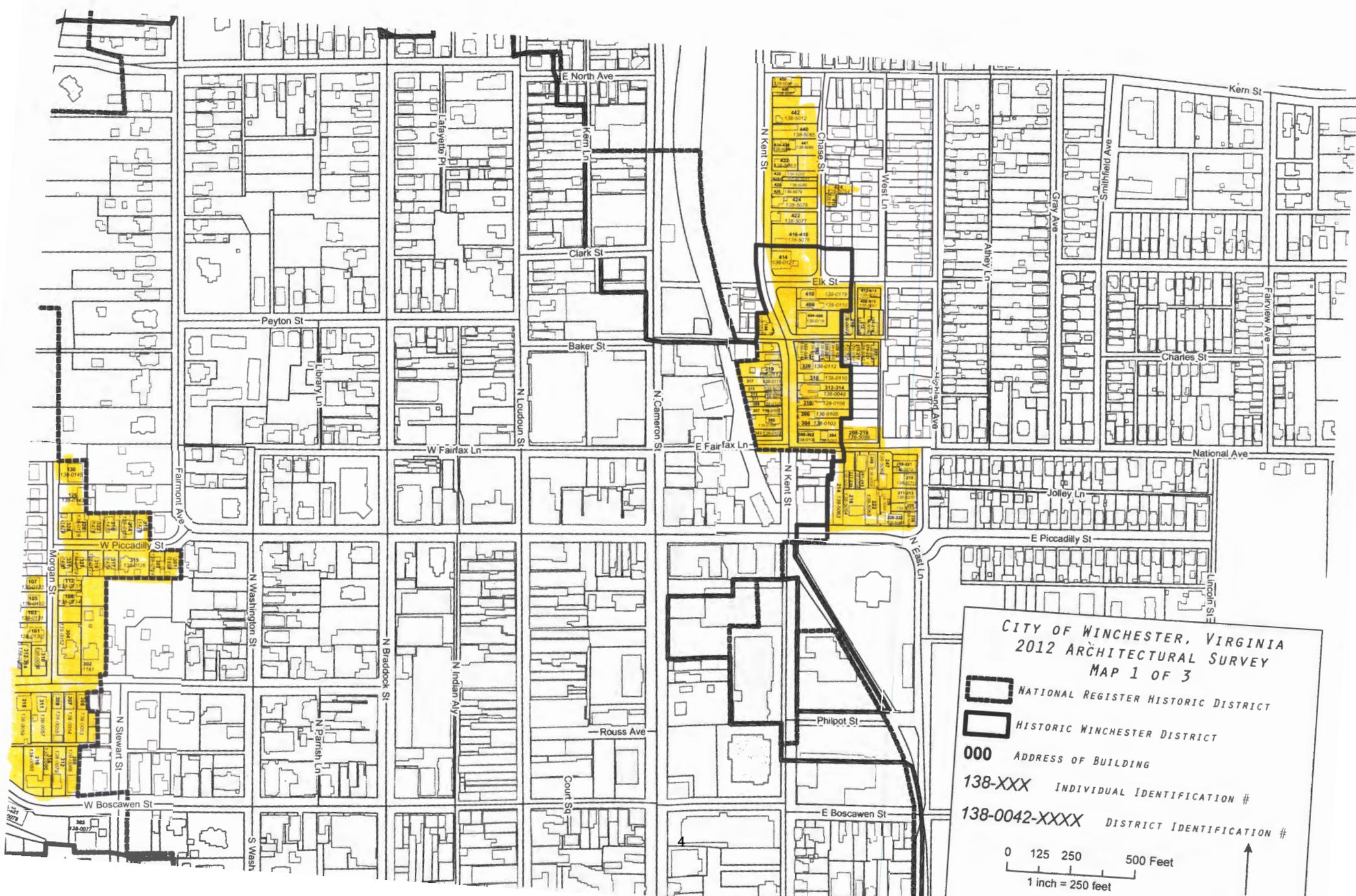
The proposed 2014 budget includes \$5K for preparing the National District Expansion nomination. Public hearings would also need to be held prior to DHR considering the request. Expansion of the district would allow many more property owners to seek tax credits for restoration efforts. These investments would result in increased property values and fewer chances for blighted property, thus increasing real estate revenue and reducing code enforcement expenses.

OPTIONS:

- 1) Authorize staff to contract for consultant services to prepare nomination.
- 2) Authorize staff to prepare scope of work for further Council deliberation.
- 3) Defer further action at this time.

RECOMMENDATIONS:

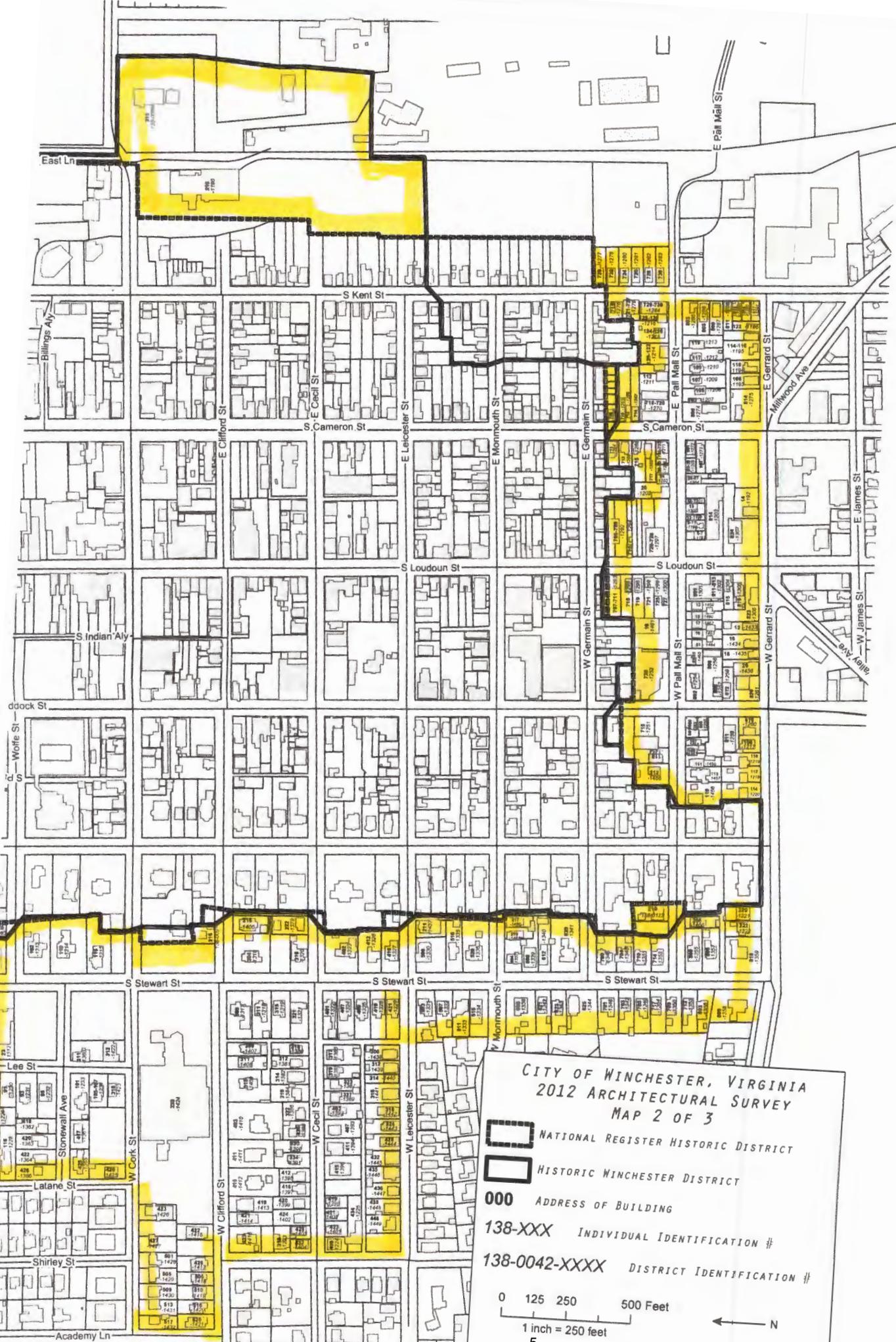
Staff recommends Option #1, provided that FY2014 is approved.



CITY OF WINCHESTER, VIRGINIA
2012 ARCHITECTURAL SURVEY
MAP 1 OF 3

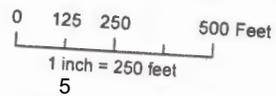
 NATIONAL REGISTER HISTORIC DISTRICT
 HISTORIC WINCHESTER DISTRICT
000 ADDRESS OF BUILDING
138-XXX INDIVIDUAL IDENTIFICATION #
138-0042-XXXX DISTRICT IDENTIFICATION #

0 125 250 500 Feet
 1 inch = 250 feet



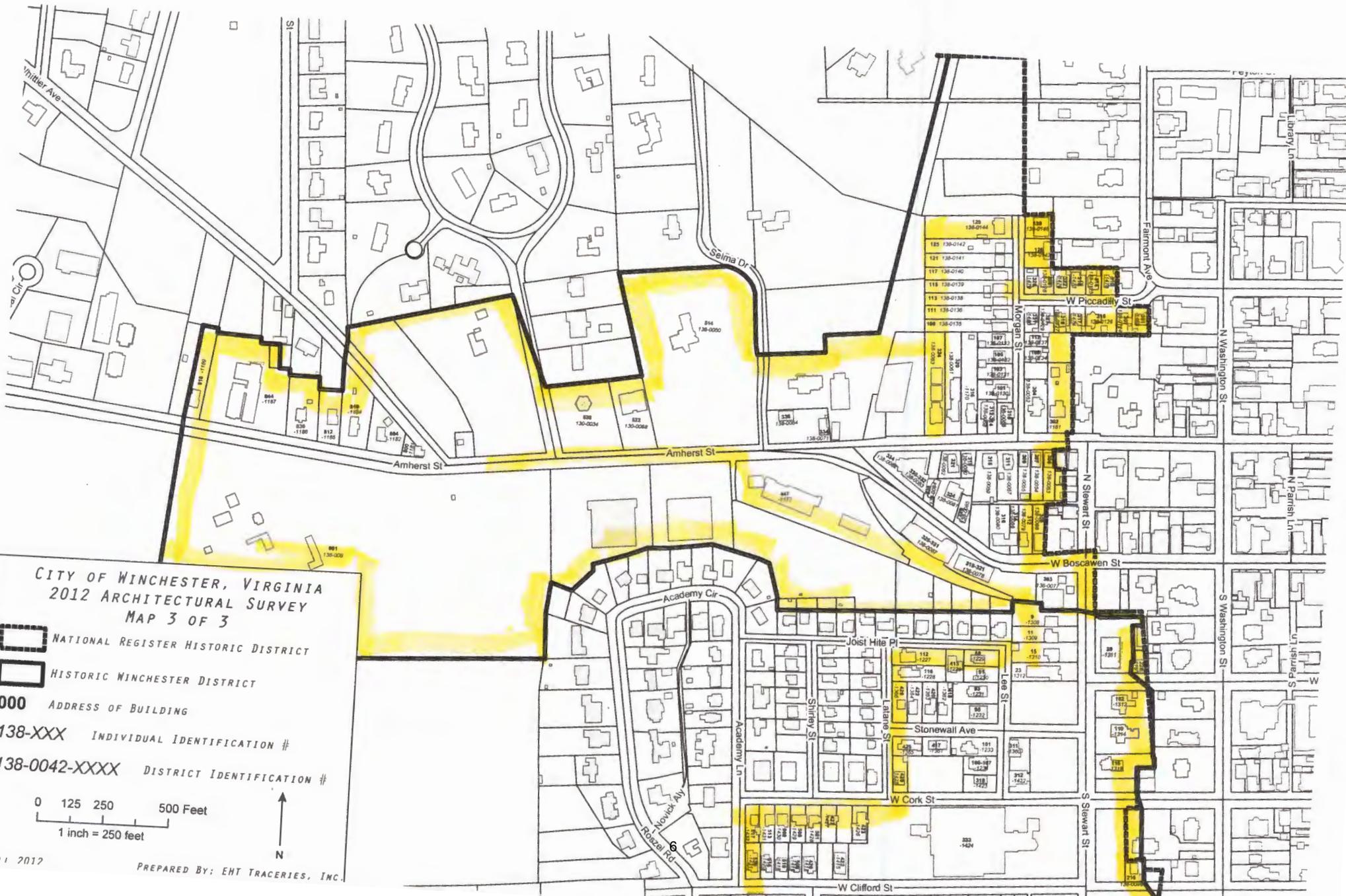
CITY OF WINCHESTER, VIRGINIA
 2012 ARCHITECTURAL SURVEY
 MAP 2 OF 3

-  NATIONAL REGISTER HISTORIC DISTRICT
-  HISTORIC WINCHESTER DISTRICT
- 000** ADDRESS OF BUILDING
- 138-XXX** INDIVIDUAL IDENTIFICATION #
- 138-0042-XXXX** DISTRICT IDENTIFICATION #



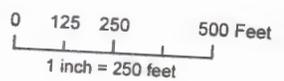
FALL 2012

PREPARED BY: EHT TRACERIES, INC.



CITY OF WINCHESTER, VIRGINIA
 2012 ARCHITECTURAL SURVEY
 MAP 3 OF 3

-  NATIONAL REGISTER HISTORIC DISTRICT
-  HISTORIC WINCHESTER DISTRICT
- 000** ADDRESS OF BUILDING
- 138-XXX** INDIVIDUAL IDENTIFICATION #
- 138-0042-XXXX** DISTRICT IDENTIFICATION #



CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

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

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

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

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval.

FUNDING DATA: N/A

INSURANCE: N/A

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

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

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



Returned 2-21-13 Needs Economic Development Signature



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

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: February 20, 2013
Re: RZ-12-405

THE ISSUE:

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

RELATIONSHIP TO STRATEGIC PLAN:

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

BACKGROUND:

See attached staff report

BUDGET IMPACT:

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

OPTIONS:

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

RECOMMENDATIONS:

Planning Commission (on a 3-2-1 vote) recommended approval subject to latest version of proffers and Development Plan.

February 26, 2013
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RZ-12-405 AN ORDINANCE TO CONDITIONALLY REZONE 7.74 ACRES OF LAND AT 940 CEDAR CREEK GRADE FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY

REQUEST DESCRIPTION

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

AREA DESCRIPTION

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



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

COMMENTS FROM STAFF

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

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

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

Comprehensive Plan Consistency

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

The Cedar Creek Grade corridor has undergone considerable change over the past 25 years from being primarily single-family development along a two-lane roadway to becoming a mixed use corridor served by a four-lane arterial. A number of sites that were rezoned to RO-1 by the City in the 1990's were subsequently rezoned on a conditional basis to Highway Commercial (B-2) by private developers. These conditional B-2 rezonings often included restrictions on commercial uses. This effort includes the two lots along the south side of Cedar Creek Grade across from the east end of the subject Racy property where two large office buildings are situated today. Corridor Enhancement (CE) overlay zoning was established along Cedar Creek Grade in 2006.

Potential Impacts & Proffers

The proposal is a conditional rezoning request wherein the applicant has voluntarily submitted proffers to mitigate potential impacts arising from the rezoning of the property from HR to HR (PUD). The original

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

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

Fiscal Impact Analysis

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

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

The Commission requested that the City's Economic Redevelopment Director review the proposal and comment on the fiscal impacts associated with changing the zoning from the current RO-1 which would support general and medical office development to instead have all HR (PUD) zoning that would specifically consist of 132 apartment units and no commercial development. In the attached memo to the Planning Director dated February 10, 2013, Mr. Deskins suggests that a more economically viable development scenario would be to retain zoning supporting commercial development such as offices on a two acre portion of the site out along Cedar Creek Grade while allowing the remaining 5.75 acres to be rezoned to HR(PUD) for the development of 120 apartment units. The two acres of RO-1 or B-2 zoned land out front could support upwards of 30,000 square feet of development which would generate BPOL and/or Sales tax revenue for the City in the range of \$15K-\$50K and greatly help offset any expenditures arising from the residential development on the rear of the tract (SEE ATTACHED).

Traffic Impact Analysis

At the October 16, 2012 meeting, the Commission also required a Traffic Impact Analysis. This is appropriate given the close proximity to the Frederick County corporate limits where VDOT has authority

to require review of rezonings that create a certain threshold of additional traffic above that generated by the current zoning. A Traffic Signal Warrant Study dated 12/4/12 was submitted on 12/10/12 to the Planning Director and to the Public Services Director, Perry Eisenach. The Warrant Study concluded that a traffic signal would not be warranted at the proposed intersection of Cedar Creek Grade and the extension of Stoneleigh Drive, even if situated opposite of the existing Cedar Creek Grade/Stone Ridge Rd intersection. The Public Services Director reviewed the study and agreed with the findings.

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

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

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

Alterations were made to traffic flow on Cedar Creek Grade at Stoneridge Rd intersection after VDOT had widened the road from two lanes to four lanes in 1993. The alteration decreased the capacity of Cedar Creek Grade by converting one of the two eastbound lanes and one of the two westbound lanes approaching Stoneridge Rd into right-turn and left-turn lanes respectively. That change essentially reduced Cedar Creek Grade down to a single through lane eastbound and westbound at that one location.

The applicant is proffering to extend a private roadway northward to connect with another private roadway internal to the apartment development. It would also connect to the privately-owned portion of Stoneleigh Drive serving the existing Summerfield Apartment development. Summerfield Apartments were approved with improved access only to the north connecting with the public portion of Stoneleigh Dr in the Orchard Hill townhouse development. The developer of the Summerfield Apartment development offered to extend Stoneleigh Drive as a public street southward to allow for an orderly extension of that street ultimately to Cedar Creek Grade once the Racey property was developed. Due to

strong opposition from adjoining Orchard Hill residents, City Council turned down a subdivision proposal in 1997 that would have extended the public street, but the apartment development site plan was nonetheless approved relying solely upon access to Harvest Drive, a Category II Collector Street via local (Category I) streets within the Orchard Hill development.

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

Site Development and Buffering

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

Recreation and Open Space

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

The proffers and the plan also call for an 8-foot wide asphalt trail extending through the active recreational area out along Cedar Creek Grade. The revised layout provides for a longer continuous segment of multipurpose trail west of the private street intersection. The applicant is no longer proposing to convey any recreation amenities to the Winchester Parks & Recreation Department (WP&RD) but is still proposing for it to become a part of a citywide satellite park system. The proffer has been reworded to have the facilities remain with the property owner and have an easement granted for public use of the facilities.

Stormwater Management

Proffer #6 addresses the impacts of stormwater management and the applicant's measures to mitigate the potential impacts. A detailed stormwater analysis would be generated by the applicant and reviewed by the City at the time of site plan. It is intuitive that the applicant's proposed layout which, in many places, calls for a 75-foot wide green buffer at the low end of the site adjoining Cedar Creek Grade is superior to

any plan allowed by right under current zoning that would permit impervious coverage consisting of office buildings and parking lots situated as close as 35 feet of the public right of way line.

Density

The updated Proffer Statement includes a breakdown by bedroom count. The applicant proposes 72 one-bedroom units, 42 two-bedroom units, and 18 three-bedroom units. The actual project density is not specifically stated in the proffer, but it comes out to 17 units per acre where 18 units per acre is the absolute maximum permissible under PUD zoning.

Community Rules and Regulations

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

Project Phasing

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

Other Issues

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

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

RECOMMENDATION

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

However, the proposed rezoning does reflect a deviation from the land use designation shown on the Character Map in the Comprehensive Plan. This is particularly a concern given the evolving land use

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

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

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

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

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

The motion for the unfavorable recommendation on the request read:

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

At the February 19, 2013 meeting, on a 3-2-1 vote (Shore and Beatley opposing and Wiley abstaining), the Planning Commission forwarded Rezoning **RZ-12-405** to City Council recommending approval because the proposed HR (PUD/CE) zoning, as proffered, supports the expansion of housing serving targeted populations and facilitates the extension of Stoneleigh Drive as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Proffer Statement updated **February 18, 2013** and the updated Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit “A”’ dated December 3, 2012

Anthony C. Williams, City Attorney
Judy K. Combs, Paralegal
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 667-2259
TDD: (540) 722-0782
Website: www.winchesterva.gov

To: Honorable Members of Common Council

From: Anthony C. Williams, City Attorney

**Cc: Dale Iman, City Manager
Tim Youmans, Planning Director**

Subj.: Racey Acres – Proposed Rezoning – RZ-12-405

Date: February 21, 2013

MEMORANDUM

The proposed Ordinance to Rezone 7.74 acres of land at 940 Cedar Creek Grade (RZ-12-405) was received by this Office for review on February 21, 2013. This Office was advised that the Economic Development Director was unavailable for review of the proposal. Additionally, it was discovered that no draft Ordinance was included in the package.

Upon discussion with the Planning Director, he has requested that this item be forwarded to Council for consideration at the February 26, 2013 Work Session with the understanding that a draft Ordinance will be included with the Council Package prior to First Reading.

Pursuant to this request, and in accordance with Section 2-61 of the City Code, this Memorandum has been prepared to accompany Staff's submission of this Agenda item.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Anthony C. Williams".

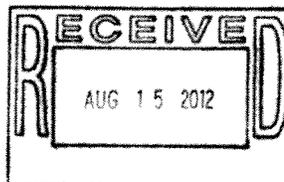
Anthony C. Williams,
City Attorney

Valley View Management, LLC
817 Cedar Creek Grade, #200
Winchester, Virginia 22601

Tel.: (540) 313-4364

August 15, 2012

Mr. Timothy P. Youmans, Director of Planning
City of Winchester, Virginia
15 N. Cameron Street
Rouss City Hall
Winchester, Virginia 22601



Re: Racy Meadows Apartment Complex
940 Cedar Creek Grade
Winchester, Virginia
Tax Map: 249-01-2
Rezoning Application: RZ-12-405

Dear Sir:

The Comprehensive Plan of the City of Winchester recommends that the area in and around the above-referenced project have an Residential Office District (RO-1) zoning. This district permits a combination of residential and light commercial uses.

This rezoning proposal is requesting that this parcel be rezoned to a High Density Residential (HR) with a Planned Unit Development District (PUD) overlay. This zoning would permit the use of multifamily residential. The RO-1 district specifically allows only the use of single-family residences. Even though this proposal varies from the existing zoning district, it does provide a similar type of housing to what exists on the adjacent property to the north and generally conforms to the use of mixed housing types in the area. The RO-1 district also promotes the use of light commercial developments and related service facilities. This proposal does not have a commercial element as part of the development, but instead proposes to install a recreational facility that will be transferred to the Winchester Parks and Recreation Department for public use. This type of facility is desired as part of the RO-1 district and we feel will be welcomed by the local residents and the tenants of this development to a much greater extent than a commercial use.

This proposal to develop the above-referenced project into an HR district with a multifamily use and a PUD overlay generally conforms to the Comprehensive Plan of the City of Winchester by allowing a varied residential use in this area and by providing a public park for the local residents. A commercial use on this property could have an adverse effect on the

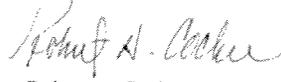
Mr. Timothy P. Youmans, Director of Planning
City of Winchester, Virginia

August 15, 2012
Rezoning Application: RZ-12-405

neighborhood due to its lighting, potential late night use, and noise generation. The provision for a public park, in lieu of a commercial element, can be controlled by the hours of permitted use and will generally serve all of the local residents by providing a recreational facility in their immediate area for convenience.

Thank you for your attention to this matter. If you would have any questions or would require further information please do not hesitate to contact me.

Sincerely,
Valley View Management, LLC



Robert A. Cocker
Manager

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

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

Revision Dates: August 6, 2012, January 9, 2013, February 18, 2013

Property Information

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

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

Site Planning Improvements

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

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

2. Interior Site Circulation:

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

3. Site Development:

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

4. Landscaping and Design:

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

5. Recreation:

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

6. Storm Water Management:

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

Density

Total Number of One-Bedroom Units:	72
Total Number of Two-Bedroom Units:	42
Total Number of Three-Bedroom Units:	18
Percentage of Tract to be Occupied by Structures:	__%
Percentage of Tract to be Open Space:	__%

Community Rules and Regulations

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

Phasing

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

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

Respectfully submitted,

APPLICANT

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

Date: _____

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

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

Notary Public

My commission expires: _____.
Registration Number: _____.

PROPERTY OWNER

Hilda C. Racey

Date: _____

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

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

Notary Public

My commission expires: _____.
Registration Number: _____.

THE FOLLOWING RULES AND REGULATIONS ARE A PART OF YOUR LEASE AGREEMENT:

- _____ **1. RENTAL PAYMENTS**

1. All rents are due and payable on the first of each month by check or money order only at the Rental Office on the premises.

2. Unless otherwise specified, checks are made payable to the property of residence.

3. All rental payments received late accrue a late fee as specified in Paragraph 5 of the Lease Agreement. Rent and late charges may be paid by personal check up to the 5th day of each month unless a notice to pay or quit possession has been given by the landlord. Thereafter, all rents and late charges must be paid by cashier's check or bank money order.

4. Filing charges and attorney fees will accrue if applicable.

5. Checks returned for non-sufficient funds will accrue a returned check fee, and must be replaced with a cashier's check or money order in the amount of the rent and a late charge, if applicable, pursuant to Paragraph 5 of the Lease Agreement.
- _____ **2. UTILITY RENT**

In those apartments where submeters have been installed to monitor the Tenants utility consumptions, the monthly usage is billed (SUBMETERING) to the Tenant by the Landlord. This utility consumption is part of the rent and all bills are due and payable on the first of the month following receipt of the utility bill. A late fee is assessed on all late payments.
- _____ **3. NOTICE TO VACATE**

Paragraphs 25 and 26 of the Lease Agreement detail proper compliance.
- _____ **4. BREAKING LEASE**

Paragraphs 27 of the Lease Agreement details responsibility.
- _____ **5. MAINTENANCE**

Maintenance service requests are to be directed to the Rental Office. Emergency maintenance service is also available after hours to handle requests of a true emergency nature which cannot wait until normal business hours.
- _____ **6.ACCESS/DELIVERIES**

After Rental Office hours emergency maintenance personnel will permit admittance only to those persons with proper identification, *specifically identified in the Lease Agreement*. Maintenance staff is not required to respond to non-emergency calls after Rental Office hours. If maintenance staff chooses to come the charge for this service is \$45 from 3:30 p.m. to midnight and \$75 from midnight to 8:30 a.m. *Payment must be made immediately to the employee providing access*. Keys for loan are available at the Rental Office for any deliveries when the tenant is not at home. However, written permission to loan keys must be left at the Rental Office. Management personnel cannot sign for or go to the apartment with any deliveries.
- _____ **7. TENANT CHARGES**

Any damages or associated costs to the property as a result of negligence, carelessness, or misuse by any member of Tenant's household, or his servants, agents, guests, invitees or visitors, is assessed to the Tenant. Examples of chargeable items include: jammed garbage disposals, broken windows, lock changes due to loss of keys, cleaning of backups due to improper use of plumbing fixtures, etc. Clause 15, Apartment Care, specifies proper use of equipment. At move-out, the apartment is to be left in clean and acceptable order; any cleaning not performed as outlined in the Notice of Intention to Vacate or any damages to the premises will be charged to the Tenant.
- _____ **8. BUILDING CARE**

A major cost of caring for the buildings and grounds is a result of the repair, replacement or cleanup of damage caused by carelessness or destructiveness. These costs are ultimately reflected in higher rents. Consequently, for everyone's benefit, Management urges all Tenants to treat the property as if it was their own.
- _____ **9. LAUNDRY**

Properties are furnished either with laundry rooms or equipped with individual washers and dryers in the apartments. Privately owned laundry equipment is not permitted. Unless otherwise posted, washers and dryers are not to be used before 7:00 a.m. or after 10:30 p.m. Clothing is to be removed promptly from machines. Machines are not to be overloaded. Dyeing of fabric is strictly prohibited. Washers and dryers are to be left free of dirt or sand. Machine outages are to be reported to the Rental Office. Drying lines are not permitted in the the laundry rooms, outside the buildings, or on the balconies or terraces. Landlord reserves the right to increase fees to cover his increased cost of utilities and maintenance repairs.
- _____ **10. TRASH DISPOSAL**

The Tenant is not to allow trash and garbage to accumulate in the apartments. Landlord has provided several solutions to refuse disposal in order to keep the premises clean; Tenants are required to avail themselves of dumpsters and/or outside receptacles and regularly scheduled trash pick-ups in order to maintain the community. Boxes are to be broken down as much as possible. Bundles of refuse are not to be placed in public hallways, under hall stairs and other common areas. Dirty diapers and pet litter are to be disposed of in appropriate containers and removed from apartment to the dumpsters not less than *twice per week*.
- _____ **11. STORAGE**

Flammable items are not to be stored. Balconies and terraces are not for storage. In all cases Management assumes no responsibility for loss or damage to articles that are stored.
- _____ **12. USE OF BALCONIES, TERRACES, WINDOWS, LAWN**

For everyone's safety and to ensure an attractive community, Management enforces specific rules regarding the use of balconies, terraces, etc. Hanging rugs, drapes, clothing or laundry of any kind on window sills, balconies, terraces or lawns is strictly prohibited. Tenants are not permitted to keep anything on window sills or on or outside the balcony rails; flower pots must only be hung inside of balcony rails. Only approved furnishings are allowed on the balconies or terraces; the use of balconies or terraces as storage space is not permitted. Only approved window treatments are allowed at the windows or door; the hanging of sheets, flags, etc. is strictly prohibited. The shaking of brooms, dust mops, rags or other cleaning materials out of the windows, doors, terraces or balconies is not allowed. Tenants are not to permit anything to be thrown out of the windows or over the balconies of the leased premises. No property of any description is to be placed on the lawn. Per fire regulations and because they contain gasoline, motorcycles or scooters are to be kept in parking lots only and not in or near the premises. No charcoal cooker, brazier, hibachi, or grill, or any gasoline or other flammable liquid or liquefied petroleum gas-fired stove or similar devices shall be ignited or used on the balconies, terraces or patios.

**13. USE OF FACILITIES
PLAYING, LOITERING,
DOORS**

Playing or loitering in hallways, on entrance steps, on sidewalks, or in parking areas is strictly prohibited. Playing ball or riding bicycles on the lawns or engaging in any activity which would be destructive to grass or shrubs is not permitted.

**14. ALTERATIONS,
REDECORATIONS AND
INSTALLATIONS
EQUIPMENT**

Painting, papering, altering or adding to the structure, equipment or fixtures is prohibited without prior written consent from Management. The use of contact paper, cork board, or non-strippable wallpaper is not allowed since such items damage the walls. Repairs necessitated by such damage will be charged to the Tenant. The installation or attachment of door knockers, doorbells, security or locking devices, television or radio antennas, or any electrical or mechanical equipment will only be permitted with written permission. Tenants will be charged for removal of improper devices or equipment, and for any associated damage. Running exposed wires for electrical appliances or fixtures in violation of the electrical codes is strictly prohibited.

**15. APARTMENT
CARE**

The apartment is to be maintained in a clean, safe and orderly condition at all times. Damage caused by negligence or improper use will be charged to the Tenant.

A. Walls and Woodwork - Adhesive fasteners (used to hang pictures) damage walls and are prohibited; a reasonable number of nails and picture hangers are permitted. All woodwork is to be protected against injury or defacement.

B. Floors - For best results, kitchen floors are to be cleaned with a good self-polishing wax, not paste, acrylic, cleaning or clear vinyl waxes.

C. Ceilings - In those communities where the walls and ceilings are constructed of concrete, the Tenant is not to fasten, attach, or otherwise disturb any of the walls or ceilings in or on the premises. Any plumbing leaks or water stains that may appear on walls, ceilings or floors are to be reported immediately to the Rental Office.

D. Carpets - Carpeting, where furnished by Landlord, is to be vacuumed often and shampooed when necessary. Damage to carpeting will be charged to the Tenant.

E. Appliance Maintenance - Landlord furnishes and maintains such appliances that are now and may be placed in the leased premises, and as the Landlord deems suitable and appropriate. Landlord is not liable for any damage caused directly or indirectly in furnishing or maintaining the appliances, or by the failure to maintain the appliances in operation. Negligent use by the Tenant in the operation of any appliance will result in a charge to the Tenant.

(1) Refrigerators - The landlord will furnish and maintain in operation in the leased premises such refrigeration as the Landlord shall deem suitable and appropriate, but shall not be liable for any damages which may be caused, directly or indirectly, in furnishing or maintaining the same, or by failure to maintain the same in operation. Tenant agrees that if any member of his household, his servants, guests, or visitors shall cause damage to the refrigerator of Landlord, Tenant agrees to pay the cost to repair the damage. Regular defrosting will provide excellent service from the unit; however, the use of infrared devices or sharp objects for defrosting are not permitted. Damage to the refrigerator as a result of improper defrosting will be charged to Tenant.

(2) Stoves/Ovens - Regular cleaning will provide better performance from the unit.

(3) Garbage Disposals - Garbage disposals are provided. Cold water must be run while the unit is in operation and until the drain is cleared. Tenants are not to overload the units or to dispose of items such as large bones, paper, rags, corn cobs, corn husks, stringy vegetables (such as celery, sweet potato skins), plates or foil in the disposal.

(4) Dishwashers - Dishwashers are provided. Food particles are to be removed from all dishes. A commercial detergent designed specifically for dishwashers is to be used, not sudsing types or liquid detergents used in hand or clothes washing.

(5) Washers and Dryers - A commercial detergent designed specifically for clothes washing is to be used. Dryer lint traps are to be cleaned after each use. Units are not to be overloaded.

F. Plumbing Fixtures - The water closets and other water and sewer apparatus and fixtures are not to be used for purposes other than those for which they were designed. Sweepings, matches, rags, disposable diapers, ashes, or other improper articles are not to be thrown therein. Disposable diapers or other "disposable" products are not to be flushed down commodes. Contrary to manufacture's claims they will stop up sewer lines, causing overflows and back-ups for which Tenant will be charged. All running water, dripping faucets and water leaks should be reported immediately to the Rental Office for repair.

G. Electric Light Bulbs and Fuses - Electric light bulbs and fuses are provided for all fixtures by Landlord at the time Tenant takes possession of the apartment. Thereafter, the Tenant must provide bulbs and fuses of a like kind and quality, to be left in the fixtures and operable when Tenant vacates the premises. Failure to comply with this provision will result in a charge to the Tenant.

H. Heating and Air Conditioning - All failures or unusual noises are to be reported to the Rental Office. In cold weather, heat should never be turned off completely; rather, the thermostat should be set at a minimum of 55° to avoid frozen water pipes which could break. To obtain maximum performance for the equipment and to minimize utility consumption the following measures should be undertaken:

(1) Thermostats/accustats are to be set at 78° during the cooling season and at 68° during the heating season

(2) During the air conditioning season vents should be adjusted for maximum coolness throughout the apartment

(3) When equipment is in operation, doors and windows should be kept closed. Air conditioning dehumidifies air as well as cools it, but cannot dehumidify and cool outside air. Open doors and windows force the air conditioning and heating units to run longer and work harder

- (4) Fan switches should be set on "auto" at all times.
- (5) Intake vents should not be blocked nor should articles be stored in the heating and air-conditioning equipment closets. Doing so inhibits air flow forcing the compressor to work harder and resulting in higher utility bills.
- I. Energy Conservation - In order to reduce the cost and consumption of utilities the following guidelines are provided:
- (1) Appliances should be maintained as outlined in Clause 15 (Apartment Care). In addition, conservative appliance use will result in energy savings.
- (2) Plumbing fixture repairs, e.g., running commodes, dripping faucets, etc., as outlined in Clause 15, should be reported immediately to Rental Office.
- (3) All areas of air infiltration should be reported immediately to the Rental Office.
- (4) During the heating season, blinds and drapes should remain open during the day to capture solar energy; during the cooling season, blinds and drapes should be drawn against sunlight.
- (5) Tenants should turn off lights when exiting their apartments.
- J. Smoke Detectors - Tenants are responsible for reasonable care of the smoke detectors, for interim testing, and for notifying Landlord in writing of any malfunctioning detectors between annual inspections. If a complaint is issued, Landlord must repair or replace the inoperative detector within five (5) days after receiving the Tenant's written notification.
- K. Keys and Locks - Each Tenant acknowledges his receipt of keys at move-in; all keys must be returned to Landlord when the Tenant vacates the premises. Tenants may not replace or add any additional locking devices or other security devices, or duplicate keys, without the prior written consent of Landlord.
- 16. WATERBEDS** Waterbeds are permitted under the following terms and conditions: In garden communities waterbeds are permitted in ground floor apartments only. Tenant must obtain a waterbed liability endorsement to his insurance policy and provide Management with a copy of said endorsement. Landlord is not responsible for any damage caused, directly or indirectly, by Tenant's waterbed.
- 17. PEST CONTROL** Pest control service is available at no charge by calling or visiting the Rental Office.
- 18. TV SERVICE** Cable TV is provided by local cable contractor; all payments, service and repairs are between Tenant and Contractor.
- 19. PARKING** Parking facilities are designated by Landlord. Any improperly parked vehicle will be ticketed by Management. After it is ticketed, the car may be towed at the owner's expense and risk. Abandoned vehicles, cars being "worked on," and ones with improper plates found in lots owned by Landlord will be ticketed. If the owner does not remove the vehicle, it will be towed. (The car may be reclaimed from the towing company after charges have been paid.) Minibikes, go-carts, or other non-licensed, self-propelled vehicles are prohibited. The Rental Office keeps a file of license tag numbers of current Tenants' vehicles. Tenants are urged to notify the Rental Office of any changes. Landlord reserves the right to charge for parking facilities. If assigned spaces are issued, any illegally parked vehicles will be towed at the sole risk and expense of the Tenant. Everyone is expected to abide by posted speed limits. Commercial vehicles, boats, trailers, RV's are strictly prohibited.
- 20. SIGNS AND ADVERTISING** Posting of signs or advertising materials is not permitted.
- 21. PETS** On properties where pets are permitted, or for those disabled tenants who are permitted to keep and maintain a help animal trained to assist in such disability, the Tenant must fully and completely comply with the Pet Addendum.
- 22. REMOVAL FOR OBJECTIONABLE NOISE** Some noise from neighbors at various times is inherent in multifamily living. However, if everyone is reasonable and considerate in their mode of living, noise is not a problem. The playing of radios, stereos, television or musical instruments must always be such as not to disturb other tenants. Occupants of apartments other than those on the lowest level must have a minimum of 80% of their floors carpeted and must avoid heavy walking or other noises that will disturb those below.
- 23. REMOVAL FOR CRIMINAL ACTS** The commission of any criminal act of physical violence to persons or property on or near the premises or the illegal use, sale or distribution of narcotics and/or controlled dangerous substances on or near the premises or in the building, common areas, driveways, parking areas, lobby or recreational facilities by Tenant, his visitors or guests constitutes a serious violation of the Lease Agreement and shall be grounds for termination of the Lease.
- 24. ABSENCE OF TENANTS** Tenants must notify the Rental Office in writing of any extended absence from the premises which exceeds seven (7) days.
- 25. INSURANCE** It is the responsibility of each tenant to cover his property and his legal liability while residing in the apartment. Management requires Tenants to obtain such Insurance listing Valley View Management, LLC as the "additional insured".
- 26. USE OF TOBACCO AND TOBACCO PRODUCTS** This property specifically allows the use of tobacco and tobacco related products. The disposal of ashes, cigarette/cigar butts, pipe tobacco, chewing tobacco/snuff is to be done only in appropriate disposal products. Under no circumstances shall any tobacco product be disposed of on the grounds of Lee Trace, whether that be the parking lot or the grass area. Additionally, no tobacco products shall be discarded anywhere in a lit stage. Failure to comply is subject to Lease termination.

These Rules and Regulations are for the convenience, safety and welfare of all Residents of Valley View Management, LLC properties. Violations of any of these Rules may be sufficient cause for termination of a Lease at the option of the Landlord. Management reserves the right to rescind or change any of the foregoing Rules and to make such other rules and regulations as may be deemed necessary for the safety, welfare and cleanliness of its properties. **ALL RATES AND FEES OR CHARGES FOR SERVICES OR MATERIALS ARE SUBJECT TO CHANGE FROM TIME TO TIME IN RESPONSE TO ECONOMIC CONDITIONS.**

Trip Generation

Trip generation for the planned apartment complex was developed from the ITE Trip Generation Manual, 7th edition. The full build-out of the project is planned to occur by the year 2014. The resulting trips generated by the project are summarized as Scenario 3 in Table 1.

In addition to the trip generation resulting from the proposed project, several other potential development types were evaluated for comparison. These are also presented in Table 1.

Table 1 Trip Generation Comparisons

Scenario 1 - Developed under current RO-1 w/ single family detached dwellings

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Residential - single family detached (27 units)	210	27	8	23	31	23	12	35	312
Total New Trips			8	23	31	23	12	35	312

Scenario 2 - Developed under HR zoning w/o PUD overlay

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Apartments (108 units)	220	108	12	45	57	50	27	77	799
Total New Trips			12	45	57	50	27	77	799

Proposed Development

Scenario 3 - Developed under HR zoning with PUD overlay

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Apartments (138 units)	220	138	15	57	71	61	33	94	980
Total New Trips			15	57	71	61	33	94	980

Scenario 4 - Developed under B-2 zoning as Medical-Dental Offices

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Medical-Dental Office Building (120,000 sq ft FAR = .35)	720	120	280	144	424	213	319	532	4,692
Total New Trips			280	144	424	213	319	532	4,692



January 10, 2013

Mr. Timothy P. Youmans, Director of Planning
City of Winchester, Virginia
15 N. Cameron Street
Rouss City Hall
Winchester, Virginia 22601

Re: Rezoning Application RZ-12-405
Fiscal Analysis

Dear Sir:

The property identified on Tax Map 249-01-2 which is the subject of the above Rezoning Application, is currently zoned RO-1, and could be developed as a light commercial or service related office building containing a maximum of 120,000 square feet. As an office building, the property would not have any services provided by the City, but it would generate revenue through real estate taxes.

Based upon the current vacancy rate on Cedar Creek Grade and Jubal Early Drive, it is logical to assume that a prudent developer/investor would not build more than 30,000 square feet in any four year period. This then would create a total "build-out" time period for maximum density of 16 years.

To determine the revenue to be collected from this parcel under an RO-1 development, we have used the real estate assessment and the corresponding real estate taxes collected from 905 Cedar Creek Grade, zoned B-2, and located almost directly opposite from the property. That property is assessed at \$10.00 per square foot for the land and \$70.87 per square foot for the improvements.

Under those assumptions, with 25% of the land being improved every four years, the assessed value for the improved property in the first phase would be Land, \$842,886.00, and Improvements, \$2,126,100.00, for a total assessment of \$2,968,986 on the first phase. The resulting taxes, assuming that the millage rate remains at \$0.95 per \$100, would be \$28,205.37.

Under this scenario, the property, developed under a RO-1 development would add \$28,205.37 to the City's revenue every four years, beginning in 2017.

Mr. Timothy P. Youmans
Page 2

If, however, the property were to be developed under a zoning of HR with a PUD Overlay, generating 132 market rate multi-family apartments, one reasonably could expect that development to generate revenues similar to the Stuart Hill Apartments, located one mile north.

Stuart Hill was assessed in 2012 for \$12,596,000.00 or \$69,977.78 per unit for its 180 units, or a total tax bill of \$119,662.00.

An apartment developer/investor would build all 132 units at one time taking approximately 16 months to complete the project. The completed project, utilizing the existing assessment on a comparable property, would create an assessed value of \$9,237,067.00; and tax revenue to the City, assuming that the millage rate remains at \$0.95 per \$100, would be \$87,752.14 in 2015, and every year thereafter.

As in the development under the RO-1 zoning, the development under the HR zoning would not require City services, but it is logical to assume that the project would conceivably be home to public school age children whose attendance in the schools would be a fiscal cost to the City via the school system.

In August, in response to concerns voiced about the impact of "Market Rate, Multi-Family Apartments" on the school system, a study was undertaken of five Market Rate communities located in the City of Winchester. Those five communities contain a total of 610 apartment units that account for a total of 49 school age children that are currently in Winchester City public schools. This results in an expectation of a ratio of 8/10 of one student per new apartment unit created; or in the case of the proposed new development, 10.56 students. These students will have a fiscal impact on the school system as discussed below.

According to the Winchester Public Schools, as presented by the Finance Department of the City of Winchester, the Operating Budget for the School System for the year 2012-2013 will be \$48,341,890.00 or \$11,237.00 per student. Of this amount, the City appropriation is 55.13% or \$26,651,702.00, or \$6,195.18 per student.

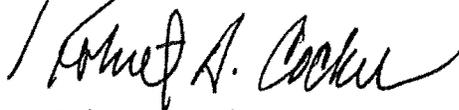
Mr. Timothy P. Youmans
Page 3

Earlier in these discussions, it was determined that the proposed HR, PUD Overlay development could possibly add as many as 10.56 students to the Winchester Public School System. Those students, if all of them are, in fact, generated would cost the taxpayers \$6,195.18 per student, or a total of \$65,421.10.

We also, earlier in these discussions, determined that the proposed HR development would create \$87,752.14 in new tax revenues for the City in 2015, thereby a revenue positive situation of \$22,331.04 in 2015.

Should you wish to discuss this Fiscal Analysis further, please do not hesitate to contact the undersigned.

Sincerely,
Valley View Management LLC



Robert A. Cocker
Manager

LAWSON AND SILEK, P.L.C.

120 EXETER DRIVE, SUITE 200
POST OFFICE BOX 2740
WINCHESTER, VA 22604
TELEPHONE: (540) 665-0090
FACSIMILE: (540) 722-4851

THOMAS MOORE LAWSON • TLAWSON@LSPLC.COM

September 21, 2012

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

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

VIA E-MAIL

Dear Tim:

As you know as part of the above-referenced rezoning application submitted by Valley View Management LLC, there have been questions raised about the number of school children that are generated by apartment complexes in the City of Winchester. In response, our client has found that at its, and at other market-rate apartment complexes, the number of school children generated is very small, especially when compared to other apartment complexes in the City. To further confirm this understanding we have had conversations with Winchester Public Schools and obtained bus stop counts for the number of children being generated at various apartment complexes around the City. For your convenience, we enclose that information.

The net of this is that our client's understanding has been proved correct. We find this information to be very helpful and hopefully dispositive of any concerns about the number of school children being generated by market-rate apartment complexes. After you have reviewed this information please do not hesitate to give me a call with any questions. In the interim, I would ask that this be placed in the rezoning application file for consideration by members of Council.

Thank you for your attention to these matters. I look forward to working with you on this rezoning.

Very truly yours,

/s/ Thomas Moore Lawson

Thomas Moore Lawson

TML:sih
Enclosure
cc: Valley View Management LLC

Stuart Hill and Pemberton Village

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
F-44	2	4
D-159	2	1
JH-62	12	4

Summerfield

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
F-35	1	1
D-154	0	1
JH-64	8	3

2265 Wilson Boulevard

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
F-47	11	12
D-108	9	10
D-109	4	4
JH-67	6	6

Treetops Park

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
F-28	0	0
D-184	0	0
JH-101	1	1

York Terrace

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
F-69	11	16
D-187	10	12
D-188	12	10
JH-102	20	30

Peppertree Apartments and Orchard Crest Apartments

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
F-30	22	25

F-31	27	27
D-104	0	0
D-105	1	2
D-106	12	24
D-107	12	10
JH-79	21	26

Woodstock Terrace and Morgan Apartments

School Bus Stops serving these apartments:

Bus Stop Number	Headcount 2011-2012	Headcount 2012-2013
Q-38	25	28
Q-27	23	23
Walking Zone for Daniel Morgan		
JH-31	25	38

To: Tim Youmans, Planning Director

From: Jim Deskins, Director of Economic Redevelopment

Subject: Rezoning Application RZ-12-405

Date: 02/10/2013

As per your request I have reviewed Mr. Cocker's Fiscal Analysis concerning the above noted rezoning application. In my review I looked closely at his assumptions along with the immediate development patterns surrounding the subject site on Cedar Creek Grade. I provide the following comments:

- Mixed use development appears to be the dominant development pattern on the corridor
- That the development of all 7.75 acres as commercial, based on current absorption rates, could require as much as a twenty plus year period,
- and the financial projects provided by Mr. Cocker did not reflect city tax income other than property tax on his commercial tax revenue assumptions. An accurate assumption would reflect sales tax receipts and or BPOL revenues

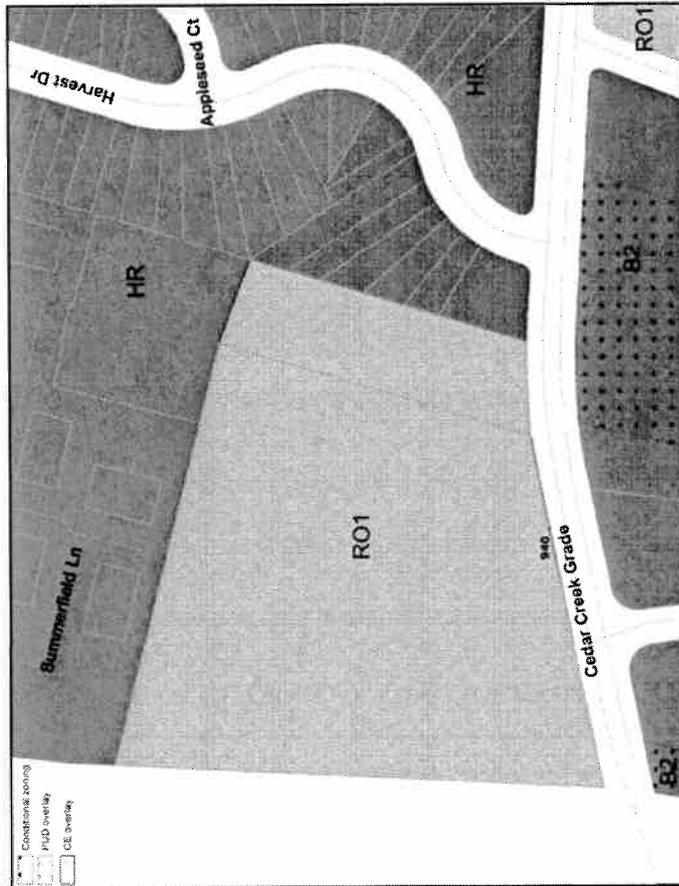
I would suggest that a more accurate potential financial analysis would project that the property be developed as a mixed use parcel with approximately 2 acres as commercial and 5.75 acres as multifamily. It is my position that this would result in a project that is currently marketable and would generate more income to the city and the developer. By using the same assumptions provided by Mr. Cocker for the first phase of commercial development with the addition of sales tax and or BPOL revenue, I have projected that the 2-acre commercial project would generate revenue to the city in a range between \$43,205 and \$78,205. This new revenue projection is based on a range of BPOL and or sales tax generation of \$15,000-\$50,000. These numbers are based on gross sales of \$150 per square foot and/or \$300,000 in professional business transactions per 1000 square feet per year, in a 30,000 square foot facility. Reducing the total number of apartments to reflect the reduction of HR-zoned multifamily land from 7.75 to 5.75 acres could result in approximately 120 units rather than the projected 132 units. This assumes that the front 2 acres of commercial land would be rezoned from RO-1 to B-2 and could still contribute to the density computation.

Therefore, reducing the gross revenue to the city in property tax from the apartments to \$79,774.66; then applying Mr. Cocker's cost attributable to the potential increased enrollment in Winchester Public Schools (reduced proportionately by the reduction in units to be built), I would estimate that the total net revenue the city could anticipate would fall within a range \$37,331 to \$77,331 per year. This compares to the net revenue figure of \$22,331 per year estimated by Mr. Cocker for the 132-unit apartment development.

REZONING EXHIBIT

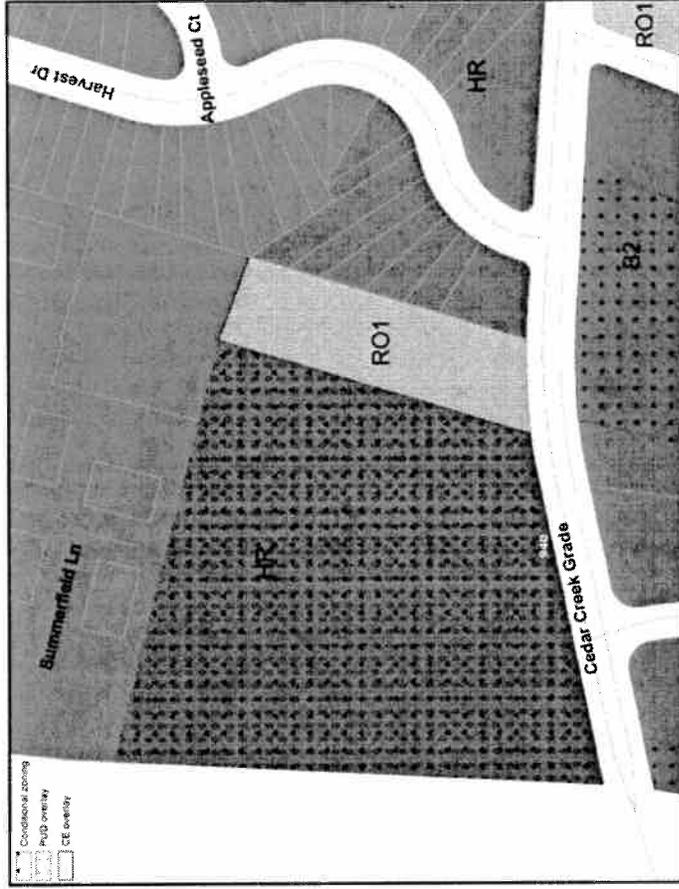
RZ-12-405

PREPARED BY WINCHESTER PLANNING DEPARTMENT
FEBRUARY 12, 2013



EXISTING

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



PROPOSED

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

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 2/26/13 (work session),
3/12/13 (regular mtg)

CUT OFF DATE: 2/20/13

RESOLUTION X ORDINANCE ___ PUBLIC HEARING

ITEM TITLE:

RESOLUTION RENAMING FRONTAGE ROAD TO MALL BOULEVARD

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

None

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. Public Services	<u>PE</u>		<u>2/20/13</u>
2. City Attorney	<u>AV</u>		<u>2/21/2013</u>
3. City Manager	<u>DI</u>		<u>2-22-13</u>
4. Clerk of Council			

Initiating Department Director's Signature:
(Planning)

[Handwritten Signature]

2/20/13



APPROVED AS TO FORM:

[Handwritten Signature] 2/21/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director 
Date: February 20, 2013
Re: Renaming Frontage Rd to Mall Boulevard

THE ISSUE:

Simon, as owners/managers of Apple Blossom Mall, requests that Frontage Rd (a public street from Millwood Ave to a southern terminus at the mall ring road) be renamed to Mall Boulevard.

RELATIONSHIP TO STRATEGIC PLAN:

High Priority: City Gateway Beautification Project (landscaping & signage)

BACKGROUND:

The City received a request from representatives at the National Office of Simon to work with them on solutions that would facilitate the removal of the grandfathered pylon sign situated in the triangle along the north side of Jubal Early Dr. This is where S.U. is working with the City to close off Millwood Ave and enhance the Rte 50 gateway into the City from Exit 313 of I-81. After discussing numerous alternatives, City staff agreed to ask Council to consider a renaming of Frontage Rd to a name that would provide better identification of what is at the terminus of that public street while also resulting in Simon removing the large existing sign that is situated on the Simon property affected by the proposed continuous westbound right-turn lane. There is only one property that currently has a Frontage Rd address.

BUDGET IMPACT:

None other than some costs associated with replacing existing City street signage.

OPTIONS:

- 1) Approve Renaming Resolution.
- 2) Disapprove Renaming Resolution.
- 3) Defer further action at this time.

RECOMMENDATIONS:

Staff recommends Option #1.

RESOLUTION RENAMING FRONTAGE ROAD TO MALL BOULEVARD

WHEREAS, Frontage Road is an existing public street extending from Millwood Avenue south to a point where it connects to the privately owned road ringing Apple Blossom Mall; and,

WHEREAS, 'Frontage Road' is a generic street name that was assigned to the remnant roadway originally part of the alignment of Front Royal Turnpike prior to the rerouting of U.S. Route 522 caused by the construction of Interstate 81 in the 1960's; and,

WHEREAS, Simon Property Group, Inc., as owner of Apple Blossom Mall, has requested that Frontage Road be renamed Mall Boulevard; and,

WHEREAS, Apple Blossom Mall, is a major regional destination for motorists accessing the site via Frontage Road from I-81 and US Routes 17, 50 and 522 and, with over 800 linear feet of property adjoining Frontage Road represents the largest property owner on the subject City street; and,

WHEREAS, there is only one parcel having a Frontage Road address which has less than 60 feet of frontage on the street and contains a structure that is residentially utilized; and,

WHEREAS, the Common Council may rename streets in accordance with the provisions of §15.2-2019 of the Code of Virginia, as amended;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Winchester, Virginia, that Frontage Road is hereby named **Mall Boulevard**.

BE IT FURTHER RESOLVED that Simon Property Group, Inc. shall cover all expenses associated with the street renaming including costs associated with altering the affected existing signage along Millwood Avenue.

BE IT FURTHER RESOLVED that the Clerk of Council is directed to forward a certified copy of this action to the Clerk of the Circuit Court who shall record the certified copy in accordance with the provisions of §15.2-2019 of the Code of Virginia, as amended.

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Dale Iman, City Manager
Date: 02/26/13
Re: Council Policy regarding funding "Outside Agencies"

THE ISSUE:

The City Council currently does not have a policy governing the funding of "Outside Agencies". Without the benefit of a formal policy to guide the decisions of the Council, with respect to funding these agencies, the process can become frustrating for all involved. The question is whether the City Council wishes to establish a formal policy governing the funding of "Outside Agencies" which will:

1. Bring consistency to the "Outside Agency" funding process,
2. Establish eligibility criteria for applicant agencies,
3. Ensure that services provided by said Agencies are complimentary to the goals of the City of Winchester,
4. Establish performance standards for agencies and;
5. Require agencies to report annually on their progress at meeting their program goals?

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2 – Develop a High Performing Organization

BACKGROUND:

The City of Winchester has a history of providing limited funding to "Outside Agencies" and "Regional Agencies". "Regional Agencies" have a defined mission and purpose which clearly serves a mandated or desired Core function of City government. Conversely, the function and purpose of "Outside Agencies" and their direct benefit to the mission of City government is often times more difficult to quantify.

Most local governments use their Community Development Block Grant (CDBG) funding provided by the Department of Housing and Community Development (HUD) to fund "Outside Agencies" as well as other eligible Community Development activities. The City of Winchester, however, initiated a practice several years ago whereby "Outside Agencies" are funded with general fund revenues thus creating a situation where these agencies directly compete with **Core City Services** for limited revenues.

The City of Winchester provided \$192,713 to 11 outside agencies in FY 2013, see attached. Thus far, we have received funding requests for the upcoming FY 2014 totaling \$432,723 from 21 outside agencies.

Compounding the issue is the decision of City Council to adopt the recommendation of the Community Development Advisory Board to obligate the entire Community Development Block Grant allocation for at least the next five years in support of the redevelopment of the Historic Taylor Hotel property.

If City Council wishes to establish a formal policy designed to help bring clarity to the "Outside Agency" funding process there are a number of issues that will need to be considered in the development of a policy.

First, City Council should have a well-defined "Mission Statement" which clearly identifies what the City hopes to accomplish with the program.

An example of a mission statement that I would recommend is:

"Outside Agency" funding is intended to provide limited support to public service agencies that provide desired services to residents of Winchester that are not available from other sources."

Second, eligibility criteria must be established. The following eligibility criteria is recommended.

- The City's "Outside Agency" funding is designed to be used as seed money to assist agencies in their formative years and should not be considered a long-term source of operating revenue.
- This funding source is not intended to be used for brick and mortar projects.
- This funding is intended to be temporary and not to exceed a three year to five year window. At the end of that funding cycle the agency is to put in place appropriate measures to insure its continuation without City funding.
- The agency shall provide evidence that its program addresses an identified goal or goals of the City Strategic plan.
- Each agency shall be required to enter into a contract or memorandum of understanding whereby, performance standards are identified; annual performance reports are required in writing; cost of program per participant is reported; and a requirement that all reported data and statistics is specific to the City of Winchester exclusively and not to include other jurisdictions, as appropriate.
- "Outside Agency" funding would only be available for certified non-profit entities with a major nexus, operation, or facility inside the City of Winchester.

Finally, staff has also considered the possible impact on previously funded outside agencies who are again seeking funding from the City if these procedures are approved by the City Council. As such, staff would recommend funding all FY 2013 funded outside agencies at their current levels for FY 2014. Additionally, the Council may wish to consider adopting a step-down funding approach over a three-year to five- year period. At the end of the five year period the Council will have the option of sub planting the use of general fund revenues with Community Development Block Grant funding to support "Outside Agencies."

BUDGET IMPACT:

- For the current FY 2013: 192,713
- For the upcoming FY 2014: \$432,723 has been requested, but staff will be recommending that if the City Council chooses to fund outside agencies, that the funding be limited to the same level of funding which is allocated in the FY 2013 budget.

OPTIONS:

1. Implement the recommended procedural changes and direct the City Manager and City Attorney to codify the changes into a formal policy. Communicate the requirements of the proposed new policy with all agencies which have requested FY 2014 funding.
2. Do not change the existing procedure.
3. Provide additional direction to staff, and/or take no action at this time.

RECOMMENDATIONS:

It is recommended that Council direct staff to draft a formal policy and eligibility criteria governing the appropriations of "Outside Agency" funding.

Agency Requests for Funding Summary

	<i>FY 2011 Actual</i>	<i>FY 2012 Actual</i>	<i>FY 2013 Budget</i>	<i>FY 2014 Request</i>
Outside Agencies				
Access Independence	-	-	-	10,000
Apple Country Head Start	2,000	-	-	-
Blue Ridge Legal Services	-	-	-	4,873
Boys & Girls Club	10,000	10,000	10,000	20,000
ChildSafe Center-CAC	-	-	-	12,600
Clean Inc.	-	-	-	10,000
Concern Hotline	-	-	-	2,000
Discovery Museum	10,000	10,000	10,000	50,000
Fremont Street Nursery	10,000	10,000	10,000	15,000
Healthy Families	10,000	10,000	10,000	10,000
Help With Housing, Inc.	-	-	-	5,000
Literacy Volunteers	-	-	-	10,000
Old Court House Civil War Museum	11,789	-	-	-
Our Health, Inc	20,188	20,188	20,188	25,000
Shenandoah Apple Blossom Festival	-	-	-	5,000
Shenandoah Area Agency on Aging	20,000	20,000	20,000	35,000
The Laurel Center	3,000	3,000	3,000	5,000
The Laurel Center - Capital	-	-	-	50,000
Virginia Commission of the Arts Grant	10,000	10,000	10,000	12,000
Winchester Day Nursery	10,000	10,000	10,000	12,500
Win-Fred Co Hist Society - Capital	-	-	-	45,000
Win-Fred Co Historical Society	79,156	79,525	79,525	83,750
Youth Development Center	10,000	10,000	10,000	10,000
Total Outside Agencies	206,133	192,713	192,713	432,723
Other Agencies				
CFFW Regional Jail	3,557,480	3,495,106	3,474,064	3,996,427
Handley Library	385,026	385,026	390,334	390,334
Handley Library - Capital	-	48,708	-	-
Lord Fairfax Community College	26,291	31,255	37,391	48,946
Lord Fairfax EMS Council	8,306	8,306	8,306	8,306
LF Soil and Water Conservation	-	-	1,000	4,500
Northwestern Community Services	183,307	183,307	183,307	183,307
NSV Regional Commission	15,078	15,078	15,198	50,177
NW Regional Juvenile Detention Center	292,056	215,127	267,090	299,751
S.P.C.A.	115,000	115,000	115,000	490,844
Winchester Health Department	223,133	257,884	258,766	266,701
Winchester Regional Airport	10,413	10,413	10,413	18,250
Winchester Regional Airport - Capital	2,621	44,766	42,916	88,616
Win-Fred Co EDC	72,000	72,000	72,000	99,756
Win-Fred Metropolitan Planning Org	8,752	8,210	20,000	20,000
Total Other Agencies	4,899,463	4,890,186	4,895,785	5,965,915
TOTAL AGENCIES	5,105,596	5,082,899	5,088,498	6,398,638

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Finance Director
Date: February 26, 2013
Re: Discussion

THE ISSUE: The City of Winchester recently completed our biennial reassessment. With these reassessment figures we have computed a revenue neutral rate for your consideration. The total reassessment as a total, grew by 1%. There were numerous changes that Assessor made in the process to ensure accurate files. The contractor did a great job and he has a great base knowledge to be able to provide continuity and continued accuracy during the next cycle as well.

The revenue neutral rate stayed consistent at .95 per \$100 of assessed value.

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

BACKGROUND: During last year's budget Cycle (FY 2013), City Council was supportive of a nine cent tax increase, moving from .86/\$100 of assessed value to .95/\$100 assessed value. This allowed us to be able to plan for future capital projects. The revenue neutral rate of .95 was reviewed by the City's financial team as well as the City's lead auditor, Billy Robinson of Brown Edwards and Company, LLP.

BUDGET IMPACT: The City's revenue would remain consistent with the budget number in FY 2013, with only a minor impact for new construction, but staying within the plus or minus 1% criteria.

OPTIONS: City Council can adopt another rate and staff will analyze this effect. If an increase is desired, staff would need to begin the advertising process for a public hearing in the coming months.

RECOMMENDATIONS: Staff recommends to leave the real estate tax rate constant at .95 cents per \$100 of assessed value. With this recommendation there is no need for a public hearing since this is revenue neutral.

**CITY OF WINCHESTER
REAL ESTATE TAX RATE CALCULATION
TAX YEAR 2013**

PREVIOUS YEAR (2012) TOTAL REAL ESTATE TAX LEVY	t,rc	\$ 25,913,070.82
MULTIPLY BY 101%		101%
ALLOWABLE 2013 REAL ESTATE TAX LEVY	rc	<u>\$ 26,172,201.53</u>
2013 TAXABLE ASSESSMENT	t	\$ 2,779,088,100
LESS:		
AGRICULTURE DEFERRED LAND USE Total Land Use	(2,459,900) t	
HORTICULTURE DEFERRED LAND USE Included in Total	(1,703,600) t	
HISTORIC REHABILITATION/DERELICT ABATEMENT	<u>(16,709,954) t</u>	(20,873,454)
NEW LOTS	- t	
NEW CONSTRUCTION (NEW BUILDINGS)ADDED BY COR	(16,650,500) t	
NEW CONSTRUCTION (EXISTING BUILDINGS)ADDED BY Co	<u>(311,100) t</u>	<u>(16,961,600)</u>
2011 NET TAXABLE ASSESSMENT FOR REVENUE-NEUTRAL CALCULATION	rc	<u>\$ 2,741,253,046</u>
ALLOWABLE 2013 REAL ESTATE TAX LEVY		\$ 26,172,201.53
DIVIDE BY 2013 NET TAXABLE ASSESSMENT		2,741,253,046
ALLOWABLE TAX RATE WITHOUT PUBLIC HEARING	rc	<u>\$ 0.9548</u>
TAX LEVY @ \$0.95/100		<u>26,041,904</u>

Legend:

rc-recalculated

t- traced sample of assessed values to source documentation (field data sheets, subdivision plats CAMRA system, H.T.E billing register, etc)

These Calculations are As Of 2/07/2013 atb



**INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING
AGREED-UPON PROCEDURES**

Ms. Mary Blowe
Director of Finance
City of Winchester, Virginia

We have performed the procedures enumerated in the attached report, which were agreed to by you, to the tax rate calculation for the 2013 tax year for the City of Winchester, Virginia. The City's management is responsible for the accounting records. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of City management which are the users of this report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached report either for the purpose for which this report has been requested or for any other purpose.

We were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion on the City's financial statements or specified elements, accounts, or items thereof. Accordingly, we do not express such an opinion. Also, we express no opinion on the effectiveness of the City's internal control over financial reporting or any part thereof. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our responsibility is limited to the period covered by our agreed-upon procedures and does not extend to any later periods for which we are not engaged.

This report is intended solely for the use of the specified users listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Brown, Edwards & Company, L.L.P.

CERTIFIED PUBLIC ACCOUNTANTS

Harrisonburg, Virginia
February 14, 2013

**CITY OF WINCHESTER, VIRGINIA
AGREED UPON PROCEDURES**

REAL ESTATE TAX RATE CALCULATION PROVIDED BY MANAGEMENT

Procedures:

- Agree the real estate tax levy to the 2012 assessment records.
- Agree the 2013 taxable assessments to the land books provided by the City Assessor.
- Agree the agriculture deferred land use to listings provided by the City Assessor.
- Agree the horticulture deferred land use to listings provided by the City Assessor.
- Agree the historic rehabilitation information to listings provided by the City Assessor.
- Agree the new construction information to listings provided by the City Assessor.
- Foot the 2013 taxable assessment, less agriculture deferred land use, less horticulture deferred land use, less historic rehabilitation information, less new construction information and agree to the 2013 net taxable assessment for revenue neutral calculation.
- Recalculate the allowable 2013 real estate tax levy which is obtained by multiplying the 2012 total real estate tax levy by 101%.
- Recalculate the allowable tax rate by dividing the allowable 2013 real estate tax levy by the 2013 taxable assessment information.

Results:

There were no exceptions noted while performing the procedures noted above.

City of Winchester Five-Year Capital Improvement Plan Requests

Project Description	Funding Source	Prior Years	2014	2015	2016	2017	2018	Future	Total Project
<u>General Government</u>									
Public Safety Radio Network	Gen Fund		3,100,000						3,100,000
	CIP Fund	400,000							400,000
Fire Burn Building	Gen Fund			600,000					600,000
	State			430,000					430,000
JJC Improvements	Bonds			3,200,000					3,200,000
	Gen Fund		150,000						150,000
	Other		150,000						150,000
Emergency Generator - City Yards	Gen Fun		75,000						75,000
City Hall HVAC	Gen Fund		100,000						100,000
City Hall Brick Repairs	Gen Fund			600,000					600,000
Green Circle	Federal	2,000,000	800,000	500,000	500,000	500,000	500,000		4,800,000
	Gen Fund	753,000	200,000	125,000	125,000	125,000	125,000		1,453,000
Maintenance Facility	Gen Fund		50,000						50,000
	Utilities		50,000						50,000
	Bonds			500,000	6,000,000				6,500,000
City Entrance Corridor Imp	Bonds		1,000,000						1,000,000
S Loudoun/Abrams Drainage	State	100,000	850,000						950,000
	Other	100,000	1,150,000						1,250,000

City of Winchester Fiscal Year 2014 Budget

City of Winchester Five-Year Capital Improvement Plan Requests

Project Description	Funding Source	Prior Years	2014	2015	2016	2017	2018	Future	Total Project
N. Kent/Liberty Storm Drainage	Gen Fund State		100,000 25,000						100,000 25,000
Valley Ave/Whitlock Storm Drainage	Gen Fund State		30,000 30,000	370,000 370,000					400,000 400,000
Valley Ave Drainage & Sidewalks	Bonds State		700,000	2,500,000 2,500,000					2,500,000 3,200,000
Storm Drainage Improvement	Other			1,500,000	1,500,000	1,500,000	1,500,000	10,000,000	16,000,000
Traffic Signal Improvements	State Federal Gen Fund	1,700,000 200,000 4,650,000		220,000	225,000	230,000	460,000	550,000	1,700,000 200,000 6,335,000
Traffic Signal Synchronization	Gen Fund State			300,000 300,000					300,000 300,000
Intersection Improvements	Gen Fund				300,000	300,000			600,000
Monticello Street Extension	State	100,000	4,900,000						5,000,000
Nester Drive Extension	Bonds State Gen Fun			720,000 720,000 30,000					720,000 750,000 30,000
Taft Avenue Extension	Gen Fund Other		60,000		3,000,000	4,000,000			60,000 7,000,000
Spring Street	Other			600,000					600,000

City of Winchester Fiscal Year 2014 Budget

City of Winchester Five-Year Capital Improvement Plan Requests

Project Description	Funding Source	Prior Years	2014	2015	2016	2017	2018	Future	Total Project
Hope Drive Extension	Gen Fund	100,000	150,000						250,000
	Bonds			2,000,000	1,850,000				3,850,000
	State		150,000	2,000,000	1,850,000				4,000,000
Meadow Branch Ave Ext	Gen Fund		50,000						50,000
	State		50,000	1,950,000					2,000,000
	Other			1,950,000					1,950,000
Pleasant Valley Road Realignment/Extension	Other						6,000,000		6,000,000
Featherbed Lane Improvement	Gen Fund						750,000		750,000
Weems Lane Improvements	Gen Fund							1,000,000	1,000,000
Shawnee Drive Improvements	Bonds							2,000,000	2,000,000
Papermill Road Improvements	Bonds							3,500,000	3,500,000
Parks ADA Phase #2	Gen Fund		150,000	525,000					675,000
Athletic Field Renovations	Gen Fund		275,000						275,000
Amphitheater Renov	Gen Fund			15,000	150,000				165,000
	Other					500,000			500,000
	Bonds					1,000,000			1,000,000
Basketball Courts Renov	Gen Fund			60,000					60,000

City of Winchester Fiscal Year 2014 Budget

City of Winchester Five-Year Capital Improvement Plan Requests

Project Description	Funding Source	Prior Years	2014	2015	2016	2017	2018	Future	Total Project
Park Roadway Resurfacing	Gen Fund				300,000				300,000
Outdoor Pool Sprayground	Gen Fund				275,000				275,000
Parks Waterline Repl	Bonds				1,750,000				1,750,000
Lowry Tennis Court	Gen Fund					10,000			10,000
	Other					300,000			300,000
Sidewalk Replacement	State	1,000,000	1,000,000						2,000,000
	Gen Fund	1,000,000	1,000,000	500,000	500,000	500,000	500,000	2,500,000	6,500,000
Transit Parking Area	Federal		80,000						80,000
	State		10,000						10,000
	CIP Fund		10,000						10,000
Court Square Repairs	Gen Fund		450,000						450,000
Loudoun Autopark Repairs	Gen Fund			278,000					278,000
Braddock Autopark Repair	Gen Fund			268,000					268,000
Total General Government		12,103,000	16,955,000	28,601,000	19,325,000	4,965,000	9,835,000	19,550,000	111,334,000

City of Winchester Fiscal Year 2014 Budget

City of Winchester Five-Year Capital Improvement Plan Requests

Project Description	Funding Source	Prior Years	2014	2015	2016	2017	2018	Future	Total Project
<u>Utilities</u>									
Generators for Lift Stations	Utilities		45,000						45,000
	Federal		140,000						140,000
Water & Sewer Main Repl	Bonds		4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	75,000,000	95,000,000
Sewage Lift Station Repl	Bonds		600,000	600,000	600,000	600,000	600,000	1,800,000	4,800,000
Water Meter Replacements	Bonds			1,500,000	1,500,000				3,000,000
Dam & Intake Structure Rep	Utilities			100,000	500,000				600,000
Water Storage Tank Repl	Utilities				250,000				250,000
	Bonds					4,000,000			4,000,000
Demolish Old Digesters	Utilities							750,000	750,000
Total Utilities			4,785,000	6,200,000	6,850,000	8,600,000	4,600,000	77,550,000	108,585,000
Total Five-Year CIP			12,103,000	21,740,000	34,801,000	26,175,000	13,565,000	14,435,000	219,919,000

City of Winchester Five-Year Capital Improvement Plan Requests

Project Description	Funding Source	Prior Years	2014	2015	2016	2017	2018	Future	Total Project
<u>Funding Summary</u>									
		Prior	FY2014	FY2015	FY2016	FY2017	FY2018	Future	
	Gen Fund	6,503,000	5,970,000	3,861,000	1,875,000	1,165,000	1,835,000	9,550,000	30,759,000
	GO Bonds		1,000,000	8,920,000	9,600,000				
	Utility Bonds		4,600,000	6,100,000	6,100,000	9,600,000	4,600,000	76,800,000	107,800,000
	State	2,900,000	7,745,000	8,270,000	1,850,000			-	20,765,000
	Federal	2,200,000	1,020,000	500,000	500,000	500,000	500,000		5,220,000
	CIP Fund	400,000	10,000						410,000
	Utilities		95,000	100,000	750,000			750,000	
	Contr/Other	100,000	1,300,000	7,050,000	5,500,000	2,300,000	7,500,000	10,000,000	33,750,000
	Total	12,103,000	21,740,000	34,801,000	26,175,000	13,565,000	14,435,000	97,100,000	219,919,000

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 2/26/13 (work session),
3/12/13 (regular mtg)

CUT OFF DATE: 2/20/13

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

CU-13-15 Request of Benjamin Pelletier on behalf of Shenandoah Personal Communications, LLC for a conditional use permit to upgrade existing telecommunications facilities with additional antennas and a microwave dish at 799 Fairmont Avenue (Map Number 153-01- -2) zoned Limited Industrial (M-1) District.

STAFF RECOMMENDATION:

Approval with conditions

PUBLIC NOTICE AND HEARING:

Public hearing for 3/12/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with conditions

FUNDING DATA: N/A

INSURANCE: N/A

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Planning	<i>JB</i>		2/20/13
2. City Attorney	<i>aw</i>		2/20/2013
3. City Manager	<i>[Signature]</i>		2-21-13
4. Clerk of Council			

Initiating Department Director's Signature: *L.M. [Signature]* 2/20/13
(Zoning and Inspections)



APPROVED AS TO FORM:

[Signature] 2/20/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections
Date: February 20, 2013
Re: Conditional Use Permit (CU-13-15) – Telecommunications Facility Upgrade

THE ISSUE:

Request for CUP for removal of six antennas and installation of nine antennas to the existing 182-foot tower located on the National Fruit property at 799 Fairmont Avenue.

RELATIONSHIP TO STRATEGIC PLAN:

N/A

BACKGROUND:

City Staff has received a request for a conditional use permit for a modification of an existing telecommunications facility. This request includes the removal of six existing antennas, and the installation of nine antennas along with modification of the existing ground equipment. (See staff report for additional information).

BUDGET IMPACT:

No funding is required.

OPTIONS:

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

RECOMMENDATIONS:

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

Council Work Session
February 26, 2013

CU-13-15 Request of Benjamin Pelletier on behalf of Shenandoah Personal Communications, LLC for a conditional use permit to upgrade existing telecommunications facilities with an additional antennas and a microwave dish at 799 Fairmont Avenue (*Map Number 153-01- -2*) zoned Limited Industrial (M-1) District.

REQUEST DESCRIPTION

The applicant is proposing to remove six existing antennas and replace with nine new antennas as well add a microwave antenna as part of an upgrade of existing telecommunications facilities at the tower located on the National Fruit property at 799 Fairmont Avenue.

AREA DESCRIPTION

The existing tower is located in a wooded area in the northwest portion of the ±68 acre, M-1 zoned National Fruit Product Company industrial property. Land to the east is also zoned M-1 and includes the migrant worker camp and some single family residences along the west side of Fairmont Ave. Land to the west is zoned LR and is vacant. Land further to the southwest includes an M-1 zoned City water tank and an LR zoned single family residence. Land directly to the north is located in Frederick County and includes vacant land in the Rural Area (RA) and Residential Performance (RP) Districts.



STAFF COMMENTS

The applicant's proposal involves the removal of six existing antennas and the installation of nine new antennas along with a microwave dish on behalf of Shentel Communications on the existing 182' lattice tower located on the National Fruit parcel. The equipment will be installed at an elevation of 164'.

Collocation of antennas on existing structures as proposed is encouraged within the Zoning Ordinance. The three existing equipment cabinets at the base of the tower would be retrofitted, and a new fiber distribution box and cables will also be installed. Shentel's engineer has submitted a preliminary certification that the proposed new antennas will not exceed the radio frequency emission standards established by the Federal Government.

RECOMMENDATION

The Director of Zoning and Inspections recommends approval of the request with conditions.

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

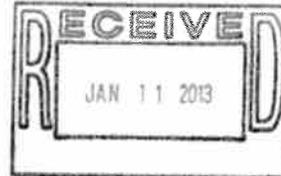
At its February 19, 2013 meeting, the Planning Commission forwarded **CU-13-15** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

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

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January 10, 2013

City of Winchester
Department of Zoning and Inspections
15 N. Cameron St
Winchester, Virginia 22601



RE: Conditional Use Permit
799 Fairmont Ave
Winchester, VA 22601

Site Name: 021 – Winchester

Applicant:

Shenandoah Personal Communications, LLC (Hereafter referred to as "Shentel.")
500 Shentel Way, PO Box 459
Edinburg, Virginia 22824

Applicant's Agent:

Benjamin Pelletier
7380 Coca Cola Drive, Suite 106
Hanover, 21076

Description of Intent

Shentel is requesting to amend existing conditions, per Section 18-2-1 of the Zoning Ordinance, on an existing telecommunications site located within an M1, or Limited Industrial District. Shentel is in the process of upgrading its core network, including all cell sites, in preparation for its 4G long term evolution (LTE) service launch. These upgrades will allow Shentel to provide 4G LTE wireless data services as well as help to improve its current 3G data and voice coverage. As this is a complete change in antennas and equipment at this location, a new conditional use permit would be required.

Proposed Scope of Work

The six existing panel antennas mounted to the pre-existing lattice tower shall be removed and replaced with nine new panel antennas of similar size. One new microwave dish antenna will also be installed. The new antennas are shown at an elevation of 164 feet; the same height as the existing Shentel antennas. The three existing equipment cabinets located at the base of the tower would be retrofitted, and a new fiber distribution box and cables would be installed.

7380 Coca Cola Dr., Suite 106

Hanover, MD

21076

(410) 712-7092

FAX (410)712-4056



18-2-1 CONDITIONAL USE PERMIT

18-2-1. Conditional use permits may be granted by the City Council for any of the uses for which a permit is required by the provisions of this Ordinance. In granting any such use permit, the City Council may impose any such conditions in connection therewith as will assure that it will conform with the requirements contained herein and will continue to do so, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. A conditional use permit shall not be issued unless the City Council shall find that:

a. The proposal as submitted or as modified will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration, with due regard for timing of operation, screening, and other matters which might be regulated to mitigate adverse impact.

Proposal is consistent.

b. The proposal as submitted or modified will conform to the Comprehensive Plan, or to specific elements of such plan, and the official policies adopted in relation thereto, including the purposes and the expressed intent of this Ordinance.

Proposal is consistent.

18-2-1.2 Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following:

a. All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.

Existing site is located on an existing tower.



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- b. The height of any tower is no more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts.

Existing tower is at 182'.

- c. The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility.

N/A – Existing site; base station screened by existing fence

- d. The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or issued by the Federal Government subsequent to the adoption of this Ordinance.

Proposal is consistent.

18-2-3 PROCEDURES.

- 18-2-3.1** The procedures governing the application for and the granting of conditional use permit where required by this Ordinance shall be as follows:

- 18-2-3.2** The applicant, who shall be a record owner, or contract owner with written approval of the owner, of the land involved (if a contract owner, copy of said contract shall be filed with and made a part of application), shall make application for the use permit to the Administrator on the form provided for that purpose, giving all information required by such form, including such other information which the Administrator may deem necessary for an intelligent consideration of the project for which a permit is desired. The application shall be accompanied by the fee as per Section 23-8, evidence of delinquent tax payment per Section 23-9, and disclosure of real party



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interest per Section 23-10 of this Ordinance and seven (7) copies of the following:

- 18-2-3.3** A site plan in accordance with Article 19 of this Ordinance.
See attached Site Plan, included in drawings, dated 1/10/13.
- 18-2-3.4** The front, side, and rear elevations and floor plans of the proposed buildings.
See attached drawings dated 01/10/13, showing existing tower elevation.
- 18-2-3.5** Public Notice and Hearing. The Administrator shall submit the conditional use permit application and copies of the site plan to the Commission, which shall make a recommendation to City Council which shall approve, approve with conditions, or deny the application. No such use permits shall be considered by the Commission or the Council except after notice and hearing as per Section 23-7-1 of this Ordinance. Written notice shall be provided per Section 23-7-2 of this Ordinance for both the Commission and City Council hearings.

Shentel will comply.
- 18-2-3.6** Notification Signs. For the hearing by both the Commission and City Council, the applicant shall place notification signage as per Section 23-7-3 of this Ordinance.

Shentel will comply.
- 18-2-3.7** Upon the granting of a use permit, one (1) copy of the site plan, upon which has been indicated the changes or restrictions, if any, required by the City Council or the Board of Zoning Appeals, shall be returned to the applicant, who may thereafter conduct the operations for which permits has been granted only in such manner and for such a time as the permit and the certified drawing shall specify. A use permit shall be valid for only the specific use it covers in the specific location designated.

Shentel understands and agrees to conditions.
- 18-2-3.8** Expiration. Notwithstanding any specific provision of any condition imposed by City Council in conjunction with the granting of a Conditional Use Permit which may conflict with this general provision, a Conditional Use Permit shall expire immediately upon any of the following



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occurrences: a) the use does not commence within one year of approval; b) the use ceases for more than one year; or, c) the use changes to another use allowed in the district. In cases where government action impedes reasonable operation of the use, these provisions shall not include the duration of such restrictions. Where permits are granted for portions of a site and/or structure, the expiration shall apply to just that portion of the site and/or structure.

Shentel understands and agrees to conditions.

18-2-3.9 **Revocation By City Council.** If the applicant or successor fails to comply with any conditions imposed by City Council per Section 18-2-1.1, City Council may, in accordance with §15.2-2286, Code of Virginia, et seq., either amend or revoke the Conditional Use Permit upon notification from the Administrator of such failure to comply. No such amendment or revocation shall be considered by City Council until a public hearing has been held per Section 23-7-1 of this Ordinance.

Shentel understands and agrees to conditions.

If you have any questions or need further information, please contact me at (757) 784-3671 or bpelletier@nbcllc.com

Most Respectfully,

Benjamin Pelletier
Consultant for Shentel Communications
Network Building & Consulting, LLC

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

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

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

ITEM TITLE:

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

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

OTDB and Planning Commission recommended approval.

FUNDING DATA: N/A

INSURANCE: N/A

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Zoning	<u>AMG</u>	_____	<u>2/19/13</u>
2. Downtown Manager	<u>[Signature]</u>	_____	<u>2/20/13</u>
3. City Attorney	_____	<u>[Signature]</u> *	<u>2/21/2013</u>
4. City Manager	<u>[Signature]</u>	_____	<u>2-22-13</u>
5. Clerk of Council	_____	_____	_____

Initiating Signature:
(Planning)

[Signature] 2/19/13



[Signature]
CITY ATTORNEY

* See Attached Memorandum

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Will Moore, Planner

Date: February 19, 2013

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

THE ISSUE:

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

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 – Continue the Revitalization of Historic Old Town

BACKGROUND:

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

BUDGET IMPACT:

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

OPTIONS:

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

RECOMMENDATIONS:

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

Council Work Session
February 26, 2013

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

REQUEST DESCRIPTION

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

STAFF COMMENTS

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

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

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

RECOMMENDATION

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

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

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

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

WHEREAS, use of sidewalks in the Downtown Special Assessment Districts is regulated in Section 18-7 of the Winchester Zoning Ordinance; and

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

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

WHEREAS, there is a separate Ordinance under consideration to repeal Chapter 26, Article III, Division 2 of the Winchester Zoning City Code to eliminate redundancies and conflicting requirements; and

WHEREAS, there is a desire to clarify and centralize such regulations within the Zoning Ordinance; and

WHEREAS, there is a desire to simplify the application process for such uses of public space, while also protecting the City from liability and providing for consistent regulation and enforcement; and

WHEREAS, the amendment to the Winchester Zoning Ordinance has been recommended for approval by the Old Town Development Board at its January 3, 2013 meeting; and

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

WHEREAS, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the amendment represents good planning practice.

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



Anthony C. Williams, City Attorney
Judy K. Combs, Paralegal
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 667-2259
TDD: (540) 722-0782
Website: www.winchesterva.gov

To: Honorable Members of Common Council

From: Anthony C. Williams, City Attorney

**Cc: Dale Iman, City Manager
Aaron Grisdale, Director of Zoning and Inspections**

Subj.: Proposed Amendments to Outdoor Café Permit Process

Date: February 21, 2013

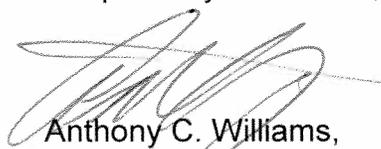
MEMORANDUM

The Amendment to the Winchester Zoning Ordinance (TA-13-35) and the proposed Ordinance to repeal Chapter 26, Article III, Division 2 of the Winchester City Code Pertaining to Sidewalk Cafés were received by this Office for review on February 20, 2013. Initial review revealed that the proposal requires amendment prior to endorsement of this Office for submission for approval by Common Council.

Upon discussion with the Director of Zoning and Inspections, he has requested (in an effort to have the Ordinance presented for adoption prior to the completion of the renovations of the Downtown Mall) that this item be forwarded to Council for consideration at the February 26, 2013 Work Session with the understanding that additional recommended revisions from this Office shall be forthcoming upon full review and prior to First Reading by Common Council.

Pursuant to this request, and in accordance with Section 2-61 of the City Code, this Memorandum has been prepared to accompany Staff's submission of this Agenda item.

Respectfully Submitted,


Anthony C. Williams,
City Attorney

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

Draft 3 – 2/18/13

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

ARTICLE 14

HISTORIC WINCHESTER DISTRICT - HW

SECTION 14-5. ADMINISTRATIVE REVIEW.

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

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

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

ARTICLE 18

GENERAL PROVISIONS

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

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

ARTICLE 21

VIOLATION AND PENALTY

21-3 Civil Penalties

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

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

ARTICLE 23

ADMINISTRATION AND INTERPRETATION

SECTION 23-8. FEES.

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

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

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

ARTICLE 18

GENERAL PROVISIONS

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

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

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

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

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

18-7-1.4 **Fee.** A fee per Section 23-8-18 is required upon issuance of any such permit.

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

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

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

18-7-1.7 Area Available for Use.

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

18-7-1.8 Revocation of Permits. The Administrator may revoke any permit specified in this Section if it is determined that the conditions therein have not been met by the applicant.

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

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

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

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

18-7-2.2

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18-7-6

SPECIAL EVENTS. Special Events in the Primary and Secondary Downtown Assessment Districts shall be governed by the provisions of Chapter 14, Article IX of Winchester City Code.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

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

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

ITEM TITLE:

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

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

OTDB recommended approval.

FUNDING DATA: N/A

INSURANCE: N/A

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

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

Initiating Signature:
(Planning)

[Signature]

2/19/13



[Signature] 2/21/2013 *
CITY ATTORNEY

* See Attached Memorandum

CITY COUNCIL ACTION MEMO

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

THE ISSUE:

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

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 – Continue the Revitalization of Historic Old Town

BACKGROUND:

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

BUDGET IMPACT:

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

OPTIONS:

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

RECOMMENDATIONS:

The Old Town Development Board and staff recommend approval.

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

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

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

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

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

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

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

Anthony C. Williams, City Attorney
Judy K. Combs, Paralegal
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 667-2259
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To: Honorable Members of Common Council

From: Anthony C. Williams, City Attorney

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Aaron Grisdale, Director of Zoning and Inspections**

Subj.: Proposed Amendments to Outdoor Café Permit Process

Date: February 21, 2013

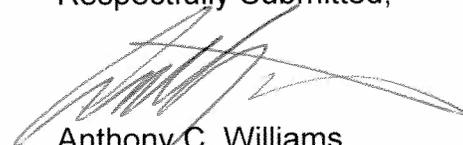
MEMORANDUM

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Pursuant to this request, and in accordance with Section 2-61 of the City Code, this Memorandum has been prepared to accompany Staff's submission of this Agenda item.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Anthony C. Williams".

Anthony C. Williams,
City Attorney

WINCHESTER CODE

CHAPTER 26

STREETS AND SIDEWALKS

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

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ARTICLE III. LOUDOUN STREET MALL

DIVISION 1. GENERALLY

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

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

STREETS AND SIDEWALKS

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

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

DIVISION 2. SIDEWALK CAFES, REPEALED

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SECTION 26-34. PERMIT REQUIRED.

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

SECTION 26-35. APPLICATION FOR SIDEWALK CAFÉ PERMIT.

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

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

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

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

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

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

STREETS AND SIDEWALKS

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

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

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

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

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

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

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

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

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

RESOLUTION ___ ORDINANCE x PUBLIC HEARING x

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

STAFF RECOMMENDATION: N/A

PUBLIC NOTICE AND HEARING: Public Hearing Required

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

FUNDING DATA: N/A

INSURANCE: N/A

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

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

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

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

CITY COUNCIL ACTION MEMO

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

THE ISSUE:

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

RELATIONSHIP TO STRATEGIC PLAN:

Develop a high performing City organization

BACKGROUND:

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

BUDGET IMPACT:

None

OPTIONS:

Adopt or reject the proposed Code Amendments.

RECOMMENDATIONS:

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

OPTION 1
ANNUAL ELECTIONS OF
PRESIDENT AND VICE
PRESIDENT

OPTION 1 – ANNUAL ELECTIONS OF COUNCIL APPOINTED OFFICERS TO COINCIDE WITH TERM OF VICE MAYOR AS SET BY CITY CHARTER SECTION 3.01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2-28. PRESIDENT PRO TEMPORE.

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

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

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

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

OPTION 2
BIENNIAL ELECTIONS OF
PRESIDENT AND VICE
PRESIDENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2-28. PRESIDENT PRO TEMPORE.

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

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

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

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

R-2013-11

City of Winchester, Virginia

PROPOSED CITY COUNCIL AGENDA ITEM

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

RESOLUTION X ORDINANCE _____ PUBLIC HEARING _____

ITEM TITLE:

Lord Fairfax Community College Clinical Affiliation Agreement

STAFF RECOMMENDATION:

We recommend that City Council approve the resolution to allow the Fire and Rescue Chief to execute the Clinical Affiliation Agreement and other document.

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

FUNDING DATA:

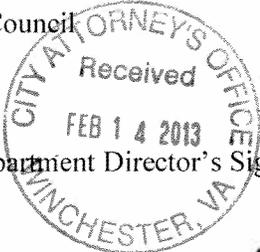
None

INSURANCE:

City Insurance coverage for City personnel. Other students must have their own insurance that lists the city as an additional insured.

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.

DEPARTMENT	INITIALS FOR APPROVAL	INITIALS FOR DISAPPROVAL	DATE
1. Finance	<i>B</i>		2-14-13
2. Risk Manager	<i>J.C.</i>		2-14-13
3. _____			
4. _____			
5. City Attorney	<i>[Signature]</i>		2/15/2013
6. City Manager	<i>[Signature]</i>		2-15-13
7. Clerk of Council			



Initiating Department Director's Signature: C. P. Mc [Signature] Date: 2-14-13

APPROVED AS TO FORM:



[Signature]
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Eddie McClellan, Deputy Chief
Winchester Fire and Rescue
Date: February 13, 2013
Re: Lord Fairfax Community College Clinical Affiliation Agreement

THE ISSUE:

Lord Fairfax Community College has an accredited EMS education program that requires students to obtain clinical experience under the supervision of qualified pre-hospital EMS providers. A Clinical Affiliation Agreement is required between the college and any clinical facility. Without a signed Clinical Affiliation Agreement between the college and the fire and rescue department our personnel that are enrolled in the program must go elsewhere to obtain their clinical experiences.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1: Grow the Economy. Career training and education related to health professions. The Clinical Affiliation Agreement would be supporting the Lord Fairfax Community College's undergraduate program for Emergency Medical Services.

BACKGROUND:

Lord Fairfax Community College is the lone entity in the Northern Shenandoah Valley accredited by the Virginia Office of Emergency Medical Services to conduct initial Advanced Life Support certification courses. Both career and volunteer personnel from the fire and rescue department continue to enroll in the Lord Fairfax Community College EMS Program to obtain certification as either an EMT-Intermediate or EMT-Paramedic. In the past our personnel as well as others were able to complete their clinical experience under the supervision of our own Advanced Life Support preceptors. Upon review of the Clinical Affiliation Agreement by the City Attorney and Risk Manager in 2012 it was determined that the Clinical Affiliation Agreement did not provide sufficient insurance coverage and indemnification to the City of Winchester. The college is unable to amend the agreement to address the City Attorney and Risk Manager's concerns because it is a standard state contract approved by the Commonwealth's Attorney General.

In order to encourage higher EMS skill levels and facilitate our own personnel to continue to enroll in the program the fire and rescue department created a Standard Operating Procedure for "EMS Student and ALS Preceptee Ride Along Program." The Standard Operating Procedure addressed the insurance and indemnification concerns of the City Attorney and Risk Manager. The Standard Operating Procedure has been reviewed and approved by both. In addition, both have now recommended that the fire and rescue department forward this to City Council for approval through a signed/adopted resolution.

BUDGET IMPACT:

None

OPTIONS:

Is to have personnel seek field clinical experience with other fire and rescue departments.

RECOMMENDATIONS:

The Winchester Fire and Rescue Department recommends that City Council approve the Resolution to allow the Fire and Rescue Chief to execute the Clinical Affiliation Agreement and other document.

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

RESOLUTION

WHEREAS, The City of Winchester Fire and Rescue Department unquestionably supports the Lord Fairfax Community College’s Emergency Medical Services “Field Clinical Program;” and

WHEREAS, The Lord Fairfax Community College is an educational institution with a Virginia Office of Emergency Medical Services accredited EMS program which requires clinical experience for students; and

WHEREAS, The City of Winchester Fire and Rescue Department has the resources in equipment and staff to provide the clinical experience required by the Emergency Medical Services Program of the college; and

WHEREAS, it is mutually beneficial to the college and the Fire and Rescue Department that resources of the Fire and Rescue Department be made available to students for the required clinical experience; and

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Winchester encourages and endorses a Clinical Affiliation Agreement between the City of Winchester Fire and Rescue Department and the Lord Fairfax Community College; and

BE IT FURTHER RESOLVED the Common Council of the City of Winchester, Virginia does hereby endorse the Clinical Affiliation Agreement and authorizes the Fire and Rescue Chief to sign and execute the Clinical Affiliation Agreement, and necessary documents.

Resolution No. 20013-XX

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

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

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

CLINICAL AFFILIATION AGREEMENT

This AGREEMENT is made this 13th day of March 2013 between Winchester Fire and Rescue (hereinafter "the Clinical Facility") and Lord Fairfax Community College, an institution or agency of the Commonwealth of Virginia (hereinafter "the College").

WHEREAS, the College is an educational institution with an approved program in EMS (Nursing/Dental Assisting/Other Clinical Program), (hereinafter "the Program") which requires clinical experiences of students enrolled therein ("Students"); and

WHEREAS, the Clinical Facility is a health care facility which has the resources in equipment and staff to provide the clinical experiences required by the EMS, Paramedic Program of the College; and

WHEREAS, it is to the benefit of the College that the resources of the Clinical Facility be made available to Students for the required clinical experiences; and

WHEREAS, it is to the benefit of both the College and the Clinical Facility to cooperate in the educational preparation of Students so as to promote excellence in patient care, to ensure professional competence, and to provide maximum utilization of community resources;

NOW THEREFORE, in consideration of the promises herein contained and other good and valuable consideration the parties agree as follows:

1. Purpose

The purpose of this AGREEMENT is to establish procedures and guidelines for the provision of clinical experiences within the Clinical Facility for Students.

2. The College's Responsibilities

The College agrees to:

- a. Present Students for clinical experiences who have adequate preclinical instruction and who, in the discretion of the faculty of the College, have adequately fulfilled the preclinical requirements of the curriculum;
- b. Provide evidence demonstrating that Students meet the Clinical Facility's physical examination requirements;
- c. Inform Students that they will be required to submit to, and pay for, a criminal background check performed by a third party clearinghouse or the Clinical Facility, containing such search parameters as the Clinical Facility indicates, to determine whether they are at a minimum listed on the "List of Excluded Individuals and Entities" maintained by the Office of the Inspector General for the Department of Health & Human Services,

or otherwise have a criminal record. Upon the Clinical Facility's request, the College will have Students provide, as a condition of their participation in the Program, the release of evidence directly to the Clinical Facility showing that a background check was performed and its results. In no event, however, will the College disseminate Students' background check results of which it might become aware, including the fact that no record exists, in derogation of § 19.2-389(C) of the *Code of Virginia*. If a student does not have a satisfactory background check, the Clinical Facility may prevent him/her from participating in the Program.

- d. Obtain, or provide evidence of herein, comprehensive insurance coverage for Students and faculty in accordance with Virginia law. In particular, malpractice coverage shall be determined by § 8.01-581.15 of the *Code of Virginia*, as amended, which provides that coverage will not exceed two million dollars (\$2,000,000);
- e. Inform Students of the rules, regulations, policies and procedures of the Clinical Facility and require their conformance to such rules, regulations, policies and procedures as a condition of their participation in the clinical experience;
- f. Advise the Clinical Facility no less than two (2) weeks prior to the commencement of the clinical experiences of the number of Students who are scheduled to participate and the dates and hour each such student will be assigned to clinical experiences as determined by the Program curriculum and students' class schedules;
- g. Provide the services of a faculty member of the Program, or other College liaison, who will:
 - (1) Plan, in conjunction with staff member(s) of the Clinical Facility the clinical experiences and patient care assignments which will fulfill the clinical requirements of the Program curriculum; and
 - (2) Meet with staff member(s) of the Clinical Facility to discuss the quality of the clinical experiences and any problems which may have arisen in the provision of those experiences.
- h. Retain responsibility for the education of Students in and for the curriculum of the Program, its design, delivery, and quality; and
- i. Maintain all educational records and reports relating to Student experiences.

3. The Clinical Facility's Responsibilities

The Clinical Facility agrees to:

- a. Provide supervised clinical experiences for Students which fulfill the curriculum requirements of the Program and meet the objectives agreed upon by the College and the Clinical Facility;
- b. Provide the College with a minimum of 90 days written notice in the event it is unable to place Students;
- c. Provide Students and faculty with an orientation to the Clinical Facility, or orientation packets about the Clinical Facility, which will include training about the Health Insurance Portability and Accountability Act of 1996 (HIPAA), especially as it relates to the Clinical Facility's confidentiality requirements;
- d. Provide Students with instruction regarding blood-borne pathogens, and how, when and why to report incidents;
- e. Require Students to sign confidentiality statements regarding the protection and confidentiality of patient medical records;
- f. Provide facilities for clinical experiences which include reasonable library, classroom, conference room and locker room space, and whenever possible, office and storage space;
- g. Provide the services of unit staff members who will:
 - (1) Assist the College's coordinating faculty members with the planning of clinical experiences and patient care assignments; and
 - (2) Meet with the College's coordination faculty members to discuss the quality of the clinical experiences and any problems which may have arisen in the provision of those experiences; and
- h. Plan, administer and retain responsibility for all aspects of the patient care program and provide for qualified supervision of all patient activities; and
- i. Allow faculty members of the College access to the facilities of the Clinical Facility for the purposes of coordinating, observing and instructing Students;
- j. Provide, on forms furnished by the College or as otherwise approved by the College, an evaluation and report on the performance of each Student.

4. Responsibility of the College and the Clinical Facility

The College and the Clinical Facility agree that:

- a. The maximum number of Students participate in clinical experiences will be determined by the parties;

- b. The parties will advise one another of changes in supervision and instructing personnel, changes in applicable policies, changes in student enrollment, and changes in the availability of resources;
- c. Emergency treatment of Students for any injuries incurred during clinical activities must be covered through the Students' personal health insurance plan, or through their own resources. Personal health insurance coverage for the College's faculty and/or Students will not be the responsibility of the College and/or Clinical Facility;
- d. The Clinical Facility may at any time summarily relieve a student from a specific assignment, or request that a student or faculty member leave a patient care area for causes related to the quality of patient care;
- e. The Clinical Facility may require that any student be withdrawn from participation in the clinical experience provided that the Clinical Facility first consults with the College and gives specific reasons for the withdrawal, which reasons shall not be among those prohibited under "f" below;
- f. Neither party shall unlawfully discriminate against any student on the basis of race, religion, sex, creed, age, national origin or disability;
- g. Students are volunteers at the Clinical Facility and not employees of either party during their clinical experience; and
- h. The parties are independent contractors in relation to one another and neither party is authorized or permitted to act as an agent or employee of the other;

5. Governing Law

This agreement is made in Middletown _____, Virginia, and shall be governed by the laws of the Commonwealth of Virginia.

6. Length of Agreement

This Agreement commences on March 13, 2013 _____ and is in effect for one (1) year with automatically renewals for subsequent one (1) year terms. It shall be reviewed each year by the parties, and it may be terminated by either party in writing and delivered by certified mail at least ninety (90) days prior to the date of termination for that year.

Should notice of termination be given by either party to this Agreement, Students currently assigned to the Clinical Facility by the College shall be permitted to complete any clinical internship assignment which is in progress at the Clinical Facility.

Termination of this Agreement may be affected by either party at the addresses of correspondence given below:

Notice of termination to the Clinical Facility shall be directed to:

Winchester Fire & Rescue Department
Attn: Eddie McClellan, Deputy Chief
231 East Piccadilly Street, Suite 330
Winchester, VA 22601

Notice of termination to the College shall be directed to:

Tammy Wagner
Associate Dean of Science and Health Professions
Lord Fairfax Community College
Middletown, VA. 22645

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed on the day, month, and year as written above:

Clinical Facility Name

Community College

By: _____
Authorized Officer

By: _____

Authorized Officer's Printed Name

Title: _____

Date: _____

Date: _____

		City of Winchester Fire & Rescue Department STANDARD OPERATING PROCEDURE			
Section:	EMS Operations	SOP:	9.4		
Subject:	EMS Student and ALS Preceptee Ride Along Program	Executed:	11/14/2012		
		Revised:			
 Approved: C. E. McClellan Jr., Deputy Chief		 Approved: Christopher Turnbull, MD, OMD			
Legal Review: Anthony Williams, City Attorney					

Purpose

To establish a standard procedure for EMS students and ALS Preceptees to participate in a Ride-Along program with the Winchester Fire and Rescue Department. The program is designed to provide the EMS student and ALS Preceptee the opportunity to observe field operations and perform EMS skills to meet/obtain competency requirements as authorized by their level of instruction/certification.

Introduction

Policy

An EMS student or ALS Preceptee may participate in the Ride-Along program if they are enrolled in and pursuing a professional certificate, associate's degree or higher program in EMS from a college, university or other program that is accredited by the Commonwealth of Virginia Office of Emergency Medical Services to provide EMS education or if they are affiliated with a licensed EMS agency within the Lord Fairfax EMS Council region. All Ride-Along personnel are referenced as "students" in this SOP. Individuals under the age of 18 years old are ineligible to Ride-Along as students.

It is the responsibility of the fire and rescue chief or his designee, to approve all applications prior to students riding on apparatus. It is the responsibility of the EMS preceptor to ensure that students comply with the provisions of this SOP.

Students may only participate in EMS calls to the extent trained and permitted under this SOP.

Exemptions: Winchester Fire and Rescue Department career personnel and volunteer members of any City of Winchester volunteer fire and rescue station are exempt from this policy.

Procedure

- To be considered for the Ride-Along program, a student must submit a request to the fire and rescue chief or his designee on the Student Ride-Along application (Attachment A). Any requests received less than five business days prior to the first requested Ride-Along date will not be considered.
- The Student or their agency will maintain a general liability policy with \$1,000,000 combined single limits. Coverage is to be on an occurrence basis with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. The insurer must list the City of Winchester as an additional insured. The endorsement must be issued by the insurance company. A notation on the certificate of insurance is not sufficient. A copy must be submitted with the Student Ride-Along application
- No student may ride along on City apparatus if he or she has a conviction or pending indictment that would prohibit him or her from obtaining certification by the Virginia Office of Emergency Medical Services as identified in 12VAC5-31-910. Criminal or enforcement history.
- If the fire and rescue chief or his designee approves the application, the student must read and sign the Ride-Along Participation, Notice of Privacy Laws, Release of All Claims and Assumption of The Risk Agreement.
- The original signed forms shall be maintained on file at the fire and rescue administrative office. A copy of the forms will be forwarded to the appropriate station and preceptor.
- The student will also submit a copy of their immunization record and verification that a criminal background check has been completed and there are no disqualifiers as outlined in this SOP.
- Copies of the Student Ride-Along application are available at all stations, the department's internal web page <http://fire.winchesterva.gov/> and with the director

of an accredited EMS program with a signed affiliation agreement with the Winchester Fire and Rescue Department.

Authority and Responsibility

A. Ride-Along hours and standards.

- A. Student Ride-Alongs must be scheduled through the EMS Deputy Chief (540-662-2298 or emcclellan@ci.winchester.va.us).
- B. Scheduling shall be done at a minimum of three (3) days prior to the Ride-Along date requested.
- C. Students may only perform skills which their instructor(s), class administrator or certification level authorizes them to perform, after appropriate instruction as part of on-going certification training.
- D. Failure of the student to follow directions/instructions of the assigned preceptor or any department officer will result in the Student's loss of privilege to participate in the Student Ride-Along program.

B. Dress and Appearance.

- A. Students shall be neat and clean in appearance. Their personnel hygiene and grooming must be acceptable to the shift battalion officer.
- B. Students shall wear suitable attire. Dark pants and light colored collared shirt are recommended (no jeans, short pants, or tee shirts). No writing or artwork is allowed on clothing, except small brand logos and student patches associated with their program are allowed. Shoes must be flat and closed toe (steel-toe shoes are strongly recommended). Ride-Alongs from agencies outside of Winchester may wear their agency uniform with prior approval.
- A. Students shall display a name badge or other appropriate identification issued by their school, program or agency at all times.
- B. Students shall wear safety vests provided by the department when in or near moving traffic.
- C. Students shall wear no jewelry, except a ring and a watch are permitted. No piercings are permitted other than ear piercings.
- D. Any tattoo that could be considered offensive should be covered with a long sleeve shirt at all times.

C. Conduct.

A. Health and Safety

- i. Student shall wear a seat belt as per State Law and Winchester Fire and Rescue Department SOP 7.6 "Apparatus Driving Procedures" section "Other Safety Rules."
- ii. No firearms or other weapons may be brought onto department property or carried during the ride along.

- iii. Students may not be under the influence of alcoholic beverages or drugs during the Ride-Along. If the assigned preceptor has reason to suspect the student is under the influence the student will not be allowed to Ride-Along.
- iv. The use of all tobacco products is prohibited in any station or department vehicle.

B. Patient Privacy

- i. At no time will observers be permitted to take pictures, use a video camera or any other audio-visual recording device while on the scene of an incident.
- ii. All Student Ride-Along participants will treat PHI (private health information) as strictly confidential. The disclosure of PHI outside of the organizations who are working with the patient is strictly forbidden.
- iii. Students may not take or copy response documents with individually identifiable information such as name, address, SSN, medical history, or other information from which identity can be inferred.

C. Other

- i. Student Ride-Alongs will be responsible for bringing her/his own meals or can make arrangements to buy-in for meals with the working shift.
- ii. Student Ride-Alongs are expected to assist and participate with daily station duties.

Winchester Fire and Rescue Department
Student Ride-Along Application

Applicant Information			
<i>The completed application must be returned to the fire and rescue administrative office at least five business days prior to your first requested Ride-Along date. Any false information or omissions on this application may result in disqualification for Ride-Along privileges. The department reserves the right to deny Ride-Along privileges for any reason, without prior notice.</i>			
Full Name		Date of Birth	
Home Address		Primary Contact Number	
Emergency Contact Name		Emergency Contact Number	
Place of Employment or School/Program		Gender (circle) Male Female	
Position/Title		Major/Course	
Place of Employment/School Address		Employer/School Phone	
Agency Representing			
Date(s) you are requesting to Ride-Along?		Time period you wish to Ride-Along?	
<i>Please answer the following by placing a 'Y' for yes or an 'N' for no, in the box to the right of the question.</i>			
Are you subject to a court order restraining you from harassing, stalking, or threatening an intimate partner or child of such a partner?		Are you under indictment or do you have charges pending in any court for any crime?	
Are you currently taking any medications that could impair your judgment?		Have you ever participated in the Ride-Along program before? If yes, when did you last participate?	
I have read and understand the procedure for the Student Ride-Along program of the Winchester Fire and Rescue Department. The above information is true and accurate to the best of my knowledge.			
Signature of Applicant: _____ Printed Name: _____			
FOR DEPARTMENT USE ONLY			
Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No		Return completed form to:	
Signature: _____		Winchester Fire and Rescue Department 231 East Piccadilly Street, Suite 330 Winchester, VA 22601	
Printed Name: _____		If you have any questions contact 540-662-2298	
Comments: _____			

Winchester Fire and Rescue Department

Ride-Along Participation Notice of Privacy Laws, Release of All Claims and Assumption of the Risk Agreement

WHEREAS, I, the undersigned, for my own personal education and benefit, request that the Winchester Fire and Rescue Department (WFRD) grant me permission to ride in Emergency Medical Service (EMS) vehicles, participate in EMS training exercises and participate in other fire and rescue related activities, and WFRD is willing to permit my participation because it serves important government functions such as education and recruitment, I agree as follows:

I have been instructed in federal, state, and local laws and regulations concerning emergency medical services, including the Health Insurance Portability and Accountability Act (HIPAA) relating to patient confidentiality, and I agree to abide by such laws and regulations. As a participant in the WFRD Student Ride-Along program, I agree to safeguard the privacy and confidentiality of all patients and participants encountered during the Ride-Along. I agree not to share or confirm any information regarding individual patients or their treatment, except with WFRD personnel. This includes any information that could be used to identify these patients, such as by address, description, or otherwise. I understand that any disclosure of patient information in violation of HIPAA may subject me to civil and/or criminal penalties as prescribed by 42 USC §§ 1320d-5 and 1320d-6 or other law. Such penalties may include up to ten years in federal prison and up to \$50,000 per violation.

I acknowledge that at all times I will remain under the direct supervision of my WFRD preceptor. At all times I display my identification and participant/student status. I agree to immediately notify my WFRD preceptor of any accident or injury to me, or any incident that causes me concern, and cooperate in providing information concerning the same.

During and after these training exercises and while in or around WFRD premises and vehicles, I will remain under the instruction of my WFRD preceptor, and I will abide by all instructions and restrictions imposed by WFRD and/or my WFRD preceptor including but not limited to instructions as to how I should act and the use of equipment. I acknowledge that I may be asked to discontinue the exercise or required to leave the premises at any time for any reason and I agree to abide by such decisions and the reason therefore need not be disclosed to me. I authorize WFRD to seek emergency

medical treatment for me and to arrange for my transportation to a medical facility in the event of a medical emergency.

I have been instructed as to the nature of an EMS Ride-Along and my participation in these exercises. I understand that each exercise requires a substantial degree of physical and psychological involvement and danger. I acknowledge that WFRD has taken all reasonable steps to prepare and properly equip me for these exercises. However, I have been warned that despite reasonable efforts made to protect me, I could suffer emotional and psychological trauma, serious bodily injuries, death and/or property damage as a result of the exercises. Notwithstanding such warning, and with full and complete understanding of the risks and dangers the exercises involve, I voluntarily assume full responsibility and risk for any and all personal and bodily injuries, death and property damage that may result to me from my participation in the exercises, and the risk that such injuries and damage may become permanent or more extensive than is known, anticipated or expected, and I assume all risks inherent to these exercises.

I certify that I am physically capable of safely participating in the program, and I have taken all action that I consider necessary to make this determination, including seeking the advice of and appropriate examinations by a qualified physician, and seeking any recommended vaccinations and health care. I agree to advise WFRD of any disability that may require accommodations and agree to cooperate with WFRD to determine whether an accommodation of such disability is reasonable.

In consideration of being allowed to participate in these exercises, I hereby waive, release and forever discharge the City of Winchester, Winchester Fire and Rescue Department and its volunteer stations, their officers, directors, employees, and agents from any and all claims, liabilities, losses, damages, expenses, actions and causes of actions of every nature and kind arising out of or relating in any way to the exercises. I agree to indemnify and hold harmless the City from any and all personal and bodily injuries, death and property damage, including cost of investigation, reasonable attorney's fees and cost of appeals, arising out of any such claims or suits because of any acts or omission by me. I understand that any insurance or reinsurance related to my risks is solely my responsibility.

I acknowledge that, although I will be assigned duties as a Ride-Along, these duties and my participation in the Ride-Along program does not constitute employment by the City of Winchester or the Winchester Fire and Rescue Department. No worker's compensation, insurance, reimbursement or other benefits are available to me in the event of injury, death, property damage or other loss. No promise or inducement has been made to me for my agreement.

I certify that I am over eighteen (18) years of age and am mentally competent. This Ride-Along Participation Notice of Privacy Laws, Release of All Claims and Assumption of the Risk Agreement is binding on all my heirs, executors, administrators, next of kin and assigns, and all persons who may claim by or through me.

CAUTION: READ THE FOREGOING RIDE-ALONG PARTICIPATION NOTICE OF PRIVACY LAWS, RELEASE OF ALL CLAIMS AND ASSUMPTIONS AGREEMENT BEFORE SIGNING.

Participant Signature: _____ Date ____ / ____ / ____

Printed Name: _____ Phone _____

Full Address:

In emergency, you may contact _____ Phone _____

Witness Signature: _____ Date ____ / ____ / ____

Printed Name: _____

Fire and Rescue Chief Signature _____ Date ____ / ____ / ____

Printed Name: _____

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jennifer Bell, Downtown Manager
Date: February 26, 2013
Re: Authorization for the Submittal of a 2013-2014 Local Government Challenge Grant to the Virginia Commission for the Arts

THE ISSUE: The City uses funds received through the Local Government Challenge Grant to fund three separate organizations dedicated to the arts that perform periodic events in the community.

RELATIONSHIP TO STRATEGIC PLAN: Supports the City's efforts in creating a more livable community for all.

BACKGROUND: The City has provided funding in the past to separate organizations that have sponsored the *Courthouse Concerts in Winchester*, *First Night in Winchester*, and *First Friday Celebration of the Arts in Old Town*. These events have been highly popular in the community and will benefit from receiving this grant.

BUDGET IMPACT: The match requirement of the requested \$5,000 will be paid by the Old Town Development Budget.

OPTIONS: Council can either approve or reject the City's pursuance of this grant.

RECOMMENDATIONS: It is the staff's recommendation that the City submits this grant application.

RESOLUTION

WHEREAS, the City of Winchester has a desire to obtain a 2013-2014 Local Government Challenge Grant, and

WHEREAS, the Virginia Commission for the Arts is accepting applications for the grant, and

WHEREAS, the City of Winchester strongly supports the need for the funds awarded by the grant and decrees to apply for assistance

THEREFORE BE IT RESOLVED that the City of Winchester is applying for the 2013-2014 Local Government Challenge Grant, and

BE IT FURTHER RESOLVED that the City of Winchester authorizes the Downtown Manager or a designee acting as program administrator to submit all information needed to apply for the grant, and

BE IT FURTHER RESOLVED that the City of Winchester authorizes the Downtown Manager or a designee acting as program administrator to carry out all program administrative and reporting requirements on its behalf.

1. **2013-2014 Local Government Challenge Grant**

2. **Applicant:** City of Winchester
15 North Cameron Street
Winchester, VA 22601

3. **Telephone:** (540) 667-1815
Fax: (540) 722-3618
E-mail: winmainst@ci.winchester.va.us
URL: www.winchesterva.gov

4. **Federal ID Number:** 54-6001683

5. **Contact:** Jennifer Bell, Downtown Manager
Old Town Development Board
(540) 722-7576
jbell@ci.winchester.va.us

6. **Amount of VCA Assistance Requested:** \$5,000

7. **Proposed local government arts appropriation:** \$5,000

8. **Local Independent Arts Organizations Selected to Receive Sub-Grant:**

<u>Organization</u>	<u>Mailing Address/Contact Person</u>	<u>Proposed VCA Share</u>
A. Bluemont Concert Series	P. O. Box 208 Leesburg, VA 20178 Peter Dunning	\$1,666.67
B. First Night	P. O. Box 1392 Winchester, VA 22604 Felicia Hart	\$1,666.67
C. Shenandoah Arts Council	P. O. Box 375 Winchester, VA 22604 Tracy Marlott	\$1,666.66

9. **Process for awarding grants:**
Requests are received and reviewed by the Old Town Development Board and the City Council. Criteria for selection are that the applicant must be a Virginia based arts organization offering a variety of quality, suitable entertainment that includes local and area non-profits, arts organizations, and businesses in preparation or assistance with the performance or activity, and who is accountable for the performers and activities.

10. **A copy of the Old Town Development Board members and Winchester City Council members is attached.** (Attachment A)

11. **A brief description of each arts organization is attached** (Attachment B)

2013-2014 Local Government Challenge Grant: City of Winchester

City Council Members

Jeffrey B. Buettner, President
John Willingham, Vice-President
Evan Clark
John Hill
Milt McInturff
Elizabeth A. Minor, Mayor
John Tagnesi
Ben Weber
Les Veach

Old Town Development Board Members

Lauri Bridgeforth, Chairman
Stan Corneal, Vice-Chairman
Brenda Adams
Kim Burke
Scott Dawson
Marilyn Finnemore
Cory Garmin
Melinda Kramer
Rick McClendon

2013-2014 Local Government Challenge Grant: City of Winchester

Description of each Arts Organization

Bluemont Concert Series: Founded in 1976, the Bluemont Concert Series is a regional non-profit arts organization whose purpose is to present high-quality cultural events in a community setting. The Friday evening *Courthouse Concerts in Winchester* are presented by the Bluemont Concert Series in conjunction with the Old Town Development Board and the City of Winchester. Annually, ten (10) family concerts are held at the 1840 Frederick County Courthouse on the Old Town Pedestrian Mall in historic downtown Winchester. The concert series included performances in June, July and August by local favorites such as The Carters, Joann Shenandoah, Jambulay, Idle Time Band, Bill Wellington, Hillbilly IDOL, and Trapezoid. During the 10 performances, more than 3,500 people brought out lawn chairs to enjoy the summer evening concerts. These have become a family tradition in historic Old Town Winchester, attendance notably increased the past two summers with families spending more leisure time in their own communities, i.e. “stay-vacations”.

First Night Winchester: Founded in 1987, *First Night Winchester* is affiliated with the National First Night Organization and was created as an annual family-oriented visual and performing arts festival created by and for the Winchester/Frederick County community to welcome in the New Year. Center stage for this event is Old Town Winchester. The program has grown from 12 venues/sites featuring a variety of entertainment to more than 30 entertainers and activities providing a variety of fun and entertainment between the hours of 6:00 p.m. and midnight on New Year’s Eve. In addition to great entertainment, other activities include mask making, a model train layout, Artist in the Window, teen dance, face painting, magic shows, an Ecumenical Service, Magic Lantern Theatre film showing, and a fabulous ball drop and fireworks show at midnight. Annually thousands of people of all ages enjoy the diverse offerings of First Night Winchester. Each year First Night makes the event attractive to new and returning audiences of all ages by creating new programs, introducing new performers and retaining popular performers. December 31, 2012 First Night Winchester will celebrate its 26th anniversary.

The Shenandoah Arts Council: The Shenandoah Arts Council coordinates and promotes the *First Friday Celebration of the Arts in Old Town*, which began in 1998. “Catch the spirit and experience the flavor of Old Town.” This event is a celebration of art and culture that takes place on the first Friday of every month in Old Town Winchester. Old Town galleries and merchants host art exhibits and events which include gallery openings, receptions, and live music. This arts celebration, intended to enhance cultural life in downtown areas and acquaint the community with regional artists, showcases local and regional artistic talents. In 2009, the Shenandoah Arts Council collaborated with the Old Town Development Board to establish a new out-door gallery exhibiting works created by local artists, “**ArtScape in Old Town Winchester**”. Now in its fourth year – and still the only one of its kind in the Commonwealth, the acclaimed project enhances the downtown commercial district with colorful displays of art and introduces new and regional favorite artists to the many people who live, work and visit in the Old Town district. ArtScape expanded with an Art Fair last year presenting the participating artists works of art for sale to the public with festivities. In November 2010, the Shenandoah Arts Council organizes an annual **Winchester Studio Artists Tour** as an event inviting the public to tour artists’ galleries, offering demonstrations and art for sale. Both the ArtScape Art Fair and Studio Artists Tour were open and free to the public.

DESCRIPTION

The Commission will match, up to \$5,000, subject to funds available, tax monies given by independent town, city, and county governments to arts organizations in their jurisdictions. The money, which does not include school arts budgets or arts programming by parks and recreation departments, may be granted either by a local arts commission/council or directly by the governing board.

DEADLINE

All applications must be received in the Commission office no later than 5:00 p.m., **April 1, 2013 (receipt deadline, not a postmark deadline)**. The Commission does not accept application materials via fax or email.

ELIGIBILITY & CRITERIA

Independent city, town, or county governments in Virginia are eligible to apply. Eligible activities are grants to independent arts organizations for arts activities in the locality.

APPLICATIONS ARE EVALUATED ON THE BASIS OF:

- Artistic quality of the organizations supported by the city/county/town
- Clearly defined policies and procedures for awarding local funds to arts organizations
- Degree of involvement of artists and arts organizations in the local process of awarding grants
- Responsiveness to community needs
- Evidence of local government support of the arts

APPLICATION REVIEW & PAYMENT PROCEDURE

Completed applications must be received by the Commission on or before April 1, 2013. The Commission staff reviews each application for completeness and eligibility and makes recommendations on the levels of funding. The Commission reviews the staff recommendations and takes final action on the applications.

After the Commission has awarded the grants, each local government must confirm in writing to the Commission that its governing board has appropriated the matching funds. The Commission will pay the grant in full after receiving this confirmation.

APPLICATION SUBMISSION CHECKLIST

A complete application must contain ONE (1) collated set of the following items:

- A completed Local Government Challenge Grant on 8.5" x 11" pages typed on one side.
- Signed Certification of Assurances Form (one page, both sides, sign on back).

Applicants should read the 2013-2014 Online Guidelines for Funding, Certification of Assurance and Grant Conditions to ensure compliance with all of the conditions. **The grant deadline is April 1, 2013.** The Virginia Commission will not accept any application materials via fax or email. For assistance or more information, contact the Commission office. The Commission staff is available for consultation on applications and to review drafts of applications.

Mail application to:

Virginia Commission for the Arts
1001 East Broad Street, Suite 330
Richmond, VA 23219
804.225.3132 (Voice/TDD)
www.arts.virginia.gov

Please Note New Address

DIRECTIONS

Provide all the information requested below in the order listed and send it to the Commission at the mailing address above.

1. Type **"2013-2014 Local Government Challenge Grant"** at the head of the page. Provide the information requested below on no more than TWO (2) 8.5" x 11" white pages and the attachments. (Use 12 point type or larger)
2. **Applicant local government name, address, zip code.**
3. **Telephone, email, URL.**
4. **Federal Employer ID Number.** The Federal Employer ID number is assigned to your city / county by the federal government as your Federal Employers' Identification number. This number must be included in your application. Payments cannot be made without this number.
5. **Contact Person.** The name, telephone number and e-mail address of the person to be contacted for more information about this application.
6. **Amount of Virginia Commission for the Arts assistance requested for fiscal year 2013-2014.**
7. **Proposed local government arts appropriation for fiscal year 2013-2014.** Applicant governments must match the amount requested from the Commission on at least a dollar-for-dollar basis with local government funds; federal funds may not be included. A local government that has not approved its budget by the grant deadline may apply conditionally. After the grant has been approved, any change in the allocation of funds subgranted to local arts organizations must be approved by the Commission.
8. **Sub-grants** (grants made by the local government) of any Commission funds from the Local Government Challenge grant program may only go to independent Virginia arts organizations for arts activities in the locality. Virginia arts organizations are defined as those organizations whose primary purpose is the arts (production, presentation or support of dance, literary arts, media arts, music, theater, or visual or related arts), that are incorporated in Virginia, and have their headquarters and home seasons, or activities equivalent to a home season, in the state. Units of government and educational institutions cannot be considered arts organizations.

Using the following format, list which local independent arts organizations will receive the Commission grant money subgrant. (After the Commission grant has been approved, any changes in the allocation of sub-grants to local arts organizations must be approved by the Commission.)

Organization	Mailing Address/Contact Person	Proposed VCA Grant Share
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9. **What is the process for awarding the above grants?** Who is involved in making these decisions? What criteria are sought in evaluating applicants?
10. **Attach a copy of the list of your current board/council members,** if a board/council is involved in making funding decisions.
11. **Attach a brief description of the arts organization(s)** proposed to receive Commission assistance through the Local Government Challenge Grant in 2013-2014.

CERTIFICATION OF ASSURANCES AND GRANT CONDITIONS 2013-2014 FOR LOCAL GOVERNMENT GRANTEES OF THE VIRGINIA COMMISSION FOR THE ARTS (COMMISSION)

Virginia Commission for the Arts grantees are required to be non-profit Virginia organizations and exempt from federal income tax under Section 501(a), which includes the 501(c)3 designation of the Internal Revenue code, or are units of government, educational institutions, or local chapters of tax exempt national organizations.

No part of any Commission grant shall be used for any activity intended or designed to influence a member of Congress or the General Assembly to favor or oppose any legislation.

Each Commission grantee will:

- provide accurate, current and complete financial records of each grant.
- maintain accounting records which are supported by source documentation.
- maintain effective control over and accountability for all funds, property, and other assets ensuring that assets are used solely for authorized purposes.
- maintain procedures ensuring timely disbursement of funds.
- provide the Commission, or its authorized representatives, access to the grant-related financial records.

The grantee will expend any and all grant funds only for purposes described in the application form and attachments. The grantee must request permission in writing to make substantial changes in budget, schedule, program, personnel. The requested changes must be approved in advance by the Commission. **NOTE:** If any project receiving grant support from the Commission has actual income in excess of expenses, the grantee must use these funds for other arts activities and the Commission must approve the organization's use of any of these excess funds up to the amount of the grant.

Each Commission grantee will comply with these federal statutes and regulations:

- Title VI, Section 601, of the Civil Rights Act of 1964, which provides that no person, on the ground of race, color or national origin, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- Title IX, Section 1681, of the Education Amendments of 1972, which provides that, with certain exceptions, no person, on the basis of sex or age, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.
- Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with physical or mental disabilities in federally assisted programs. Compliance with this Act includes the following: notifying employees and beneficiaries of the organization that it does not discriminate on the basis of handicap and operation of programs and activities which, when viewed in their entirety, are accessible to persons with disabilities. Compliance also includes maintenance of an evaluation plan developed with the assistance of persons with disabilities or organizations representing disabled persons which contains: policies and practices for making programs and activities accessible; plans for making any structural modifications to facilities necessary for accessibility; a list of the persons with disabilities and/or organizations consulted; and the name and signature of the person responsible for the organization's compliance efforts. ("ADA Coordinator")

No final report is required for the Local Government Challenge Grant. Each local government will confirm in writing to the Commission that its governing board has appropriated the matching funds. The Commission will pay the grant in full after receiving this confirmation.

In **all** published material (printed programs, news releases, web news, email alerts, advertisements, flyers, etc.) and announcements regarding the particular activity or activities supported, acknowledgment of the Commission must be made. A suggested phrase is "(organization or activity) is partially supported by funding from the Virginia Commission for the Arts and the National Endowment for the Arts."

This form must be signed by an individual duly authorized by the governing body of the locality to act on its behalf and submitted with every grant application made to the Commission. The signature of the individual indicates the locality's compliance with all of the grant conditions listed above.

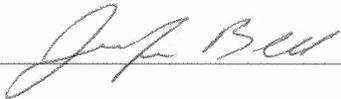
The undersigned certifies to the best of his/her knowledge that:

- the information in this application and its attachments is true and correct;
- the filing of this application has been duly authorized by the governing body of the applicant organization;
- the applicant organization agrees to comply with all grant conditions cited above.

The undersigned further certifies that he or she has the legal authority to obligate the applicant locality.

Typed Name of Authorizing Official Jennifer Bell

Title Downtown Manager

Signature of Authorizing Official 

Date 2/14/13

Applicant Locality Name City of Winchester

Applicant/Organization Name: City of Winchester

FORM BCKFDR\8891
(Updated 12/20/01)

NATIONAL STANDARD FOR ARTS INFORMATION EXCHANGE
RACIAL/ETHNICITY DATA COLLECTION FORM

Individual Applicants:

Individuals should circle **any combination** of the characteristics listed below that apply:

- A: Asian**
- B: Black/African American**
- H: Hispanic/Latino**
- N: American Indian/Alaskan Native**
- P: Native Hawaiian/Pacific Islander**
- W: White**

Organizational/Institutional Applicants

(e.g. school, arts group):

Using the characteristics listed below, circle the predominant group of which the staff or board or membership (not audience) is composed. Organizations should choose the **one** code that best represents 50 percent or more of its staff or board or membership. If none of these conditions apply to the organization, classify the organization "99."

- A: 50% or more Asian**
- B: 50% or more Black/African American**
- H: 50% or more Hispanic/Latino**
- N: 50% or more American Indian/Alaskan Native**
- P: 50% or more Native Hawaiian/Pacific Islander**
- W: 50% or more White**
- 99: No single group** listed above represents 50% or more of staff or board or membership

For Both Individual & Organizational Applicants:

Using the characteristics listed below, indicate if the majority of the grant activities are intended to involve or act as a clear expression or representation of the cultural traditions of one particular group, or deliver services to a designated population listed below, choose that group's code from the list. If the project or activity does not emphasize the culture or traditions of one group, please circle "99." If you seek or receive general operating support or support for administrative or artistic expenses for many projects and activities and cannot select one group, please circle "99."

- A: Asian individuals**
- B: Black/African American individuals**
- H: Hispanic/Latino individuals**
- N: American Indian/Alaskan Native individuals**
- P: Native Hawaiian/Pacific Islander individuals**
- W: White individuals**
- 99: No single group**

NOTE: Generally, an activity can be considered "a clear expression or representation of the cultural traditions of one particular group" if it is:

(1) A project in which the intent is to communicate the culture or traditions of a particular race. For example, performances by an African dance company would be coded as "Black/African American."

and/or

(2) Projects which are usually understood to be reflective of the culture or traditions of a particular race. For example, Kabuki theatre is performed in many localities, and by many Asian and non-Asian groups. All of these performances would be coded as "Asian" because regardless of who produces the work, the type of theatre itself is widely understood to be an expression of Japanese culture.

This information will be used as part of a data collection project which documents state arts agency grant-making activities nationwide. This information will be used to determine national trends in grant-making and will not be considered during the grant-making process.

Budget Summary

July 1, 2012- January 31, 2013

General Fund Revenue & Exp. Summary

To date in fiscal year 2013 (July 2011 through January 31, 2013) the G F revenues are \$37,760,190 representing 47.34% of the budget. Prior period last year was \$34,557,350 or 48.80%. Expenditures in the General fund are currently at \$42,321,243 representing 53.05% of the budget. Last year, in FY 2012 for the same period, our expenses were at \$39,769,113 or 55.08%. Sales Tax receipts for Nov. 2012 were \$821,941. Sales Tax receipts for Nov. 2011 were \$738,010.

Utility Fund Revenue & Exp. Summary

To date in fiscal year 2013 (July 2012 through January 31, 2013) the Utility fund revenues are \$10,746,824, representing 55.66% of the budget. Prior period last year was \$9,448,573 or 51.62%. Expenditures in the Utility fund are currently at \$12,657,662 representing 65.56% of the budget. Last year, in FY 2012 for the same period, our expenses were at \$10,835,658 or 59.19%.

Old Town Information

	Dec-11	Dec-12
Meals tax Primary Dist.	\$ -	\$ -
Meals tax Second Dist.	\$ -	\$ -

	Amended	Bgt. (7mos)	Actual
Revenue		\$46,594,331	\$37,761,190
Expenditures		\$46,564,331	\$42,321,243

	Operating	Bgt. (7 mos)	Actual
Revenue		\$15,699,412	\$10,746,824
Exp.		\$15,699,412	\$12,657,662

Highlights

- 1 December Sales tax is \$1,004,936
- 2 Meals tax up \$355,641 from same period last year
- 3 Motel tax are up slightly from last year
- 4 Old Town information above not available due to a change in process last year.

Highlights

- 1 Water & Sewer collections up \$1,140,294 from the same period last year.
- 2 Availability fees down \$87,160 from same period last fiscal year.
- 3 Capital expenditures to date are \$9,421,375

Operating Cash

* Total Cash:	\$18,251,922	Fund balance
Reserved		Committed to date
cash:	(666,231)	
Available cash:	\$17,585,691	\$2,267,000

* January-13 (General fund only)

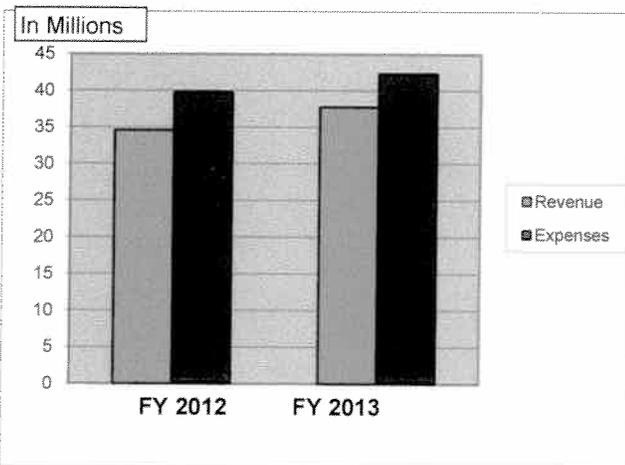
Cash & Investments

Operating Cash:	(\$753,394)
Reserves for CIP:	0
Bond Proceeds:	5,674,843
Total:	\$4,921,449

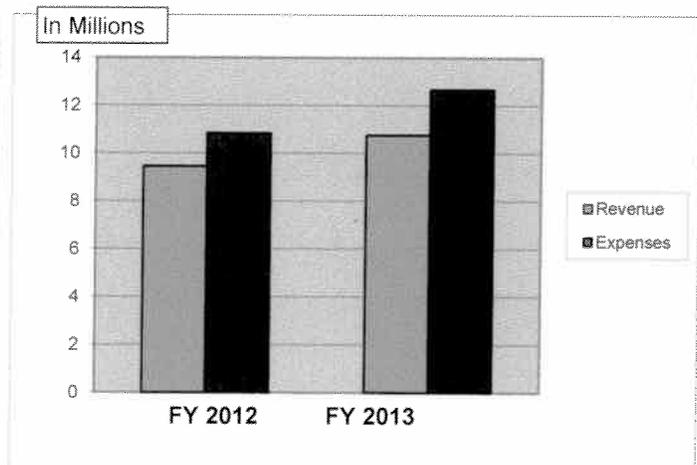
As of Jan 2013

Period to Period Comparison FY 2012 to FY 2013

General Fund



Utilities Fund



FUND 111 GENERAL OPERATING FUND
 BASIC 31 REVENUE FROM LOCAL SOURCE
 SUB 1 GENERAL PROPERTY TAXES

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2012 YTD	FY 2012 Year-end Actual	FY 2013 Original Budget	FY 2013 Amended Budget	FY 2013 YTD	FY 2013 % of Budget Realized
111-0000-311.01-01	CURRENT	10,926,554	23,540,111	25,039,000	25,039,000	12,005,616	47.95
111-0000-311.01-02	DELINQUENT	514,923	937,974	850,000	850,000	599,628	70.54
111-0000-311.01-03	DELINQUENT-PRIM/SECOND	0	0	0	8,000	8,626	107.82
111-0000-311.01-04	PRIMARY DISTRICT	0	0	0	70,000	36,218	51.74
111-0000-311.01-05	SECONDARY DISTRICT	0	0	0	80,500	41,081	51.03
111-0000-311.01-06	PENALTIES	47,411	88,835	80,000	80,600	58,170	72.17
111-0000-311.01-07	INTEREST	29,699	56,611	35,000	35,400	32,136	90.78
111-0000-311.02-01	REAL ESTATE	556,778	556,778	545,000	545,000	686,590	125.98
111-0000-311.02-03	PERSONAL PROPERTY	506	506	500	500	247	49.45
111-0000-311.03-01	CURRENT	5,549,577	7,034,140	7,300,000	7,300,000	5,518,288	75.59
111-0000-311.03-02	DELINQUENT	315,379	497,108	550,000	550,000	131,693	23.94
111-0000-311.03-03	MOBILE HOME TAXES	1,053	1,088	1,000	1,000	1,535	153.46
111-0000-311.03-04	MACHINERY & TOOLS	1,591,412	1,562,203	1,900,000	1,900,000	1,546,618	81.40
111-0000-311.03-06	PENALTIES	68,933	116,366	110,000	110,000	89,654	81.50
111-0000-311.03-07	INTEREST	24,120	45,832	50,000	50,000	7,261	14.52
* GENERAL PROPERTY TAXES		19,626,347	34,437,552	36,460,500	36,620,000	20,763,359	56.70

SUB 2 OTHER LOCAL TAXES

111-0000-312.01-01	STATE SALES TAX	3,558,398	8,485,685	8,500,000	8,500,000	3,556,744	41.84
111-0000-312.01-02	COMMUNICATIONS TAXES	1,045,668	2,142,639	2,200,000	2,200,000	1,115,727	50.71
111-0000-312.02-01	ELECTRIC UTILITY	553,660	1,192,290	1,300,000	1,300,000	672,149	51.70
111-0000-312.02-03	GAS UTILITY	129,591	263,323	520,000	520,000	202,833	39.01
111-0000-312.02-51	ELECTRIC CONSUMPTION	55,982	135,800	121,000	121,000	67,836	56.06
111-0000-312.02-52	GAS CONSUMPTION	1,640	25,352	21,000	21,000	6,805	32.40
111-0000-312.03-01	CONTRACTING	14,586	426,588	300,000	300,000	69,072	23.02
111-0000-312.03-02	RETAIL	70,292	1,945,922	2,000,000	2,000,000	62,959	3.15
111-0000-312.03-03	PROFESSIONAL	61,603	2,106,288	2,100,000	2,100,000	82,813	3.94
111-0000-312.03-04	REPAIR & PERSONAL	53,620	848,553	900,000	900,000	36,741	4.08
111-0000-312.03-05	WHOLESALE	13,689	198,354	200,000	200,000	36,045	18.02
111-0000-312.03-06	OTHER	876	3,791	4,000	4,000	880	22.00
111-0000-312.03-07	PENALTIES	10,696	75,340	65,000	65,000	18,739	28.83
111-0000-312.03-09	TELEPHONE	0	73,488	90,000	90,000	0	.00
111-0000-312.04-01	CABLE	0	0	0	0	19,949	.00

ACCOUNT NUMBER ACCOUNT DESCRIPTION
 FY 2012 YTD 7/1 - 1/31
 FY 2012 Year-end Actual
 FY 2013 Original Budget
 FY 2013 Amended Budget
 FY 2013 YTD 7/1 - 1/31
 FY 2013 % of Budget Realized

FUND 111 GENERAL OPERATING FUND
 BASIC 31 REVENUE FROM LOCAL SOURCE
 SUB 2 OTHER LOCAL TAXES

111-0000-312.04-02 ELECTRICAL	89,790	180,755	230,000	230,000	69,404	30.18	
111-0000-312.04-03 TELEPHONE ROW	32,700	73,048	70,000	70,000	47,702	68.15	
111-0000-312.04-05 GAS	36,563	48,750	50,000	50,000	48,750	97.50	
111-0000-312.05-01 LICENSES	311,518	529,784	550,000	550,000	301,470	54.81	
111-0000-312.05-03 PENALTIES	23,040	41,172	50,000	50,000	20,785	41.57	
111-0000-312.06-01 BANK FRANCHISE	0	144,487	420,000	420,000	21,038	5.01	
111-0000-312.07-01 RECORDATION	77,947	184,177	200,000	200,000	105,928	52.96	
111-0000-312.07-02 WILL PROBATE	3,053	7,571	10,000	10,000	2,491	24.91	
111-0000-312.08-02 CIGARETTES	359,513	572,964	530,000	530,000	313,460	59.14	
111-0000-312.09-01 ADMISSIONS	15,714	32,052	30,000	30,000	3,414	11.38	
111-0000-312.09-02 PENALTIES	0	327	0	0	0	.00	
111-0000-312.09-03 INTEREST	0	62	0	0	0	.00	
111-0000-312.10-01 MOTEL	314,365	621,844	600,000	600,000	341,680	56.95	
111-0000-312.10-02 PENALTIES	444	867	0	0	145	.00	
111-0000-312.10-03 INTEREST	0	8	0	0	12	.00	
111-0000-312.11-01 MEALS	2,391,026	5,356,600	5,100,000	5,100,000	2,746,667	53.86	
111-0000-312.11-02 PENALTIES	5,004	18,894	15,000	15,000	7,899	52.66	
111-0000-312.11-03 INTEREST	283	1,648	600	600	593	98.75	
111-0000-312.12-01 SHORT TERM	4,772	17,278	14,500	14,500	3,446	23.76	
111-0000-312.12-02 PENALTIES	6	28	0	0	26	.00	

OTHER LOCAL TAXES	9,236,037	25,755,729	26,191,100	26,191,100	9,984,199	38.12	

SUB 3 PERMITS, PRIVILEGE FEES

111-0000-313.01-01 DOG	2,614	12,399	11,000	11,000	2,519	22.90
111-0000-313.03-03 ON STREET PARKING	50	90	0	0	115	.00
111-0000-313.03-05 TRANSFER FEES	317	655	1,000	1,000	322	32.22
111-0000-313.03-24 EROSION, SEDIMENT CONTROL	2,675	5,900	6,000	6,000	2,350	39.17
111-0000-313.03-28 WEAPONS	2,694	6,219	3,500	3,500	3,857	110.20
111-0000-313.03-30 RE TAX APPLICATION FEE	0	20	0	0	0	.00
111-0000-313.03-31 RE PUBLIC HEARING FEE	370	390	0	0	0	.00
111-0000-313.03-36 HAZARDOUS USE	50	1,850	1,000	1,000	550	55.00
111-0000-313.03-37 TAXI	594	972	800	800	252	31.50
111-0000-313.03-50 STREET PERMITS	0	0	0	0	1,590	.00

FUND 111 GENERAL OPERATING FUND
 BASIC 31 REVENUE FROM LOCAL SOURCE
 SUB 3 PERMITS, PRIVILEGE FEES

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2012 YTD 7/1 - 1/31	FY 2012 Year-end Actual	FY 2013 Original Budget	FY 2013 Amended Budget	FY 2013 YTD 7/1 - 1/31	FY 2013 % of Budget Realized
111-0000-313.04-08	BUILDING	40,658	83,899	100,000	100,000	68,320	68.32
111-0000-313.04-10	ELECTRICAL	464	802	600	600	332	55.33
111-0000-313.04-12	PLUMBING	13,300	19,625	20,000	20,000	12,271	61.36
111-0000-313.04-14	MECHANICAL	14,800	21,989	25,000	25,000	15,777	63.11
111-0000-313.04-15	ELEVATOR	1,800	3,800	3,000	3,000	1,600	53.33
111-0000-313.04-23	OCCUPANCY	75	825	1,500	1,500	150	10.00
111-0000-313.04-32	FIRE PROTECTION	4,063	5,826	9,000	9,000	3,470	38.56
111-0000-313.04-35	GAS	284	345	300	300	136	45.33
111-0000-313.04-37	BUILDING PERMITS - SIGNS	3,320	4,680	4,000	4,000	2,320	58.00
111-0000-313.05-04	LAND USE APPLICATION FEES	16,550	26,625	30,000	30,000	17,125	57.08
111-0000-313.05-06	PLANNING ADVERTISING FEES	3,775	4,000	600	600	350	58.33
111-0000-313.05-07	RE-ZONING & SUBDIV PERMIT	7,400	9,500	12,000	12,000	7,500	62.50
111-0000-313.05-19	SIGNS, PERMITS & INSPECTI	1,700	3,065	3,000	3,000	1,200	40.00
111-0000-313.05-33	ARCHITECTURAL REVIEW	600	600	600	600	300	50.00
111-0000-313.05-34	BOARD OF ZONING APPEALS	7,400	11,050	10,000	10,000	3,550	35.50
111-0000-313.05-40	MISC FEES	2,500	3,400	2,500	2,500	650	26.00
111-0000-313.05-41	CIVIL PENALTIES	750	950	3,000	3,000	600	20.00
111-0000-313.06-02	RNTL HOUSING/INSPECTIONS	5,830	8,640	15,000	15,000	3,805	25.37
111-0000-313.06-03	RNTL HOUSING/PENALTIES	2,138	2,213	4,000	4,000	1,025	25.63
111-0000-313.06-05	MISC FEES	11,827	12,622	10,000	10,000	1,157	11.57
* PERMITS, PRIVILEGE FEES		148,598	252,951	277,400	277,400	153,193	55.22

SUB 4 FINES AND FORFEITURES

111-0000-314.01-01	COURTS	141,754	271,319	300,000	300,000	82,165	27.39
111-0000-314.01-03	REGISTRAR	0	0	0	0	100	.00
111-0000-314.01-10	INTEREST	686	2,828	2,000	2,000	1,832	91.62
* FINES AND FORFEITURES		142,440	274,147	302,000	302,000	84,097	27.85

SUB 5 REVENUE-USE OF MONEY/PROP

111-0000-315.01-01	INTEREST EARNINGS	62,356	132,253	151,000	151,500	58,762	38.79
111-0000-315.02-02	RENTAL REC PROP/FACILITY	0	0	145,000	145,000	62,244	42.93
111-0000-315.02-03	CONCESSION RENTALS	0	0	1,000	1,000	50	5.00

FUND 111 GENERAL OPERATING FUND
 BASIC 31 REVENUE FROM LOCAL SOURCE
 SUB 5 REVENUE-USE OF MONEY/PROP

ACCOUNT NUMBER ACCOUNT DESCRIPTION
 FY 2012 YTD
 7/1 - 1/31
 FY 2012 Year-end Actual
 FY 2013 Original Budget
 FY 2013 Amended Budget
 FY 2013 YTD
 7/1 - 1/31
 FY 2013 % of Budget Realized

* REVENUE-USE OF MONEY/PROP 62,356 132,253 297,000 297,500 121,056 40.69

SUB 6 CHARGES FOR SERVICES

111-0000-316.01-03 SHERIFF FEES	2,949	2,949	3,000	3,000	2,949	98.29
111-0000-316.01-05 CASE ASSESSMENT	16,580	33,625	30,000	30,000	15,851	52.84
111-0000-316.01-09 COURTHOUSE SECURITY FEE	33,437	67,461	60,000	60,000	26,641	44.40
111-0000-316.01-11 MISCELLANEOUS FEES	3,415	7,096	6,000	6,000	4,100	68.33
111-0000-316.01-12 COURTHOUSE COMPLIANCE FEE	22,495	46,221	50,000	50,000	22,092	44.18
111-0000-316.02-01 COMMONWEALTH ATTORNEY FEE	3,206	6,797	2,500	2,500	3,547	141.89
111-0000-316.03-02 MISC POLICE FEES	2,310	4,056	3,000	3,000	2,323	77.43
111-0000-316.03-10 POLICE O/T REIMBURSEMENT	5,472	15,505	0	0	4,275	.00
111-0000-316.04-03 HAZ/MAT	2,385	3,535	5,000	5,000	49,433	988.65
111-0000-316.04-05 LEPC FUNDS	0	5,538	7,000	7,000	0	.00
111-0000-316.04-06 ALARM FEES	2,950	2,950	5,000	5,000	3,000	60.00
111-0000-316.04-07 FALSE ALARM FEES	16,500	17,500	30,000	30,000	13,400	44.67
111-0000-316.06-01 ANIMAL IMPOUNDING FEES	723	1,634	1,000	1,000	903	90.30
111-0000-316.06-18 GAS INSPECTION	31,500	54,000	54,000	54,000	31,500	58.33
111-0000-316.08-02 WASTE COLL./DISPOSAL FEES	1,760	2,977	4,000	4,000	1,936	48.40
111-0000-316.08-05 SALE OF RECYCLE MATERIAL	31,121	46,660	50,000	50,000	17,682	35.36
111-0000-316.13-01 RECREATION ACTIVITIES	0	0	10,000	10,000	0	.00
111-0000-316.13-02 INDOOR POOL	0	0	143,000	143,000	44,115	30.85
111-0000-316.13-06 OUTDOOR POOL	0	0	72,000	72,000	27,601	38.33
111-0000-316.13-21 ADMISSIONS & MEMBERSHIPS	0	0	120,000	120,000	52,127	43.44
111-0000-316.13-24 ATHLETICS	0	0	88,000	88,000	24,119	27.41
111-0000-316.13-26 CHILD CARE	0	0	180,000	180,000	111,518	61.95
111-0000-316.13-28 CONCESSION SALES	0	0	20,000	20,000	17,564	87.82

* CHARGES FOR SERVICES 176,803 318,504 943,500 943,500 476,674 50.52

SUB 8 MISCELLANEOUS REVENUE

111-0000-318.01-01 PAYMENT IN LIEU OF TAXES	425,260	800,260	805,000	805,000	425,175	52.82
111-0000-318.04-04 ARTSCAPE PROGRAM	0	0	0	0	2,550	255.00
111-0000-318.98-01 BAD CHECKS	225	500	1,000	1,000	230	23.00

FUND 111 GENERAL OPERATING FUND
 BASIC 31 REVENUE FROM LOCAL SOURCE
 SUB 8 MISCELLANEOUS REVENUE

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2012 YTD 7/1 - 1/31	FY 2012 Year-end Actual	FY 2013 Original Budget	FY 2013 Amended Budget	FY 2013 YTD 7/1 - 1/31	FY 2013 % of Budget Realized
111-0000-318.98-02	ADMIN & COLLECTION FEES	25,637	49,434	30,000	30,000	24,698	82.33
111-0000-318.99-03	DONATIONS/SPEC GIFTS	0	0	5,000	5,000	0	.00
111-0000-318.99-05	SALE OF SUPPLIES	513	731	1,000	1,000	533	53.26
111-0000-318.99-06	SALE OF SURPLUS PROPERTY	0	17,647	5,000	5,000	4,619	92.39
111-0000-318.99-14	SALE OF COPIES & DOCUMENT	565	1,831	5,000	5,000	362	7.23
111-0000-318.99-22	DONATIONS-FIRE DEPT	450	1,484	0	0	500	.00
111-0000-318.99-23	DONATIONS-POLICE DEPT.	0	3,290	0	0	0	.00
111-0000-318.99-32	PARKS & RECREATION	0	0	0	0	317	.00
111-0000-318.99-33	SHERIFF	0	0	0	0	1,250	.00
111-0000-318.99-99	MISCELLANEOUS	42	58	0	0	219	.00
* MISCELLANEOUS REVENUE		452,691	875,235	852,000	853,000	460,452	53.98

SUB 9 RECOVERED COSTS

111-0000-319.02-01	MISCELLANEOUS	3,235	1,380	0	0	571	.00
111-0000-319.02-05	REBATES	0	2,183	0	0	0	.00
111-0000-319.02-19	SHERIFF	122	122	0	0	0	.00
111-0000-319.02-20	EXTERNAL RECOVERIES	0	19,791	0	0	0	.00
111-0000-319.02-22	FIRE DEPARTMENT	0	0	1,000	1,000	124	12.40
111-0000-319.02-24	SOCIAL SERVICES	0	61,555	75,000	75,000	0	.00
111-0000-319.02-34	CIRCUIT COURT	4,261	66,439	60,000	60,000	67,465	112.44
111-0000-319.02-35	JJC BUILDING	139,835	364,256	415,000	415,000	140,671	33.90
111-0000-319.02-39	INSPECTIONS/ZONING	6,250	6,250	0	0	0	.00
111-0000-319.02-40	LANDFILL-RECYCLING	0	164,334	170,000	170,000	0	.00
111-0000-319.02-43	POLICE DEPARTMENT	1,567	3,008	0	0	1,060	.00
111-0000-319.02-45	PARKS & RECREATION	0	0	0	0	249	.00
111-0000-319.02-51	DATA PROCESSING	170,150	170,150	170,000	170,000	0	.00
* RECOVERED COSTS		325,421	859,468	891,000	891,000	210,140	23.58

** REVENUE FROM LOCAL SOURCE

30,170,693	62,905,839	66,214,500	66,375,500	32,253,170	48.59
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BASIC 32 REVENUE FROM COMMONWEALTH

FUND 111 GENERAL OPERATING FUND
 BASIC 32 REVENUE FROM COMMONWEALTH
 SUB 2 NON-CATEGORICAL AID
 SUB 2 NON-CATEGORICAL AID

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2012 YTD 7/1 - 1/31	FY 2012 Year-end Actual	FY 2013 Original Budget	FY 2013 Amended Budget	FY 2013 YTD 7/1 - 1/31	FY 2013 % of Budget Realized
111-0000-322.01-05	MOBILE HOME TITLING TAXES	270	609	0	0	180	.00
111-0000-322.01-06	TAX ON DEEDS	51,457	101,129	100,000	100,000	38,764	38.76
111-0000-322.01-08	RAILROAD ROLLING STOCK TX	6,364	6,386	7,000	7,000	7,501	107.15
111-0000-322.01-10	GRANTOR'S TAX	103,272	155,408	75,000	75,000	43,357	57.81
111-0000-322.01-11	RENTAL CARS TAX	42,705	121,467	175,000	175,000	119,960	68.55
111-0000-322.01-12	PERSONAL PROPERTY REIMB.	1,647,616	2,622,084	2,633,000	2,633,000	2,622,084	99.59
* NON-CATEGORICAL AID		1,851,685	3,007,083	2,990,000	2,990,000	2,831,846	94.71

SUB 3 SHARED EXPENSES

111-0000-323.01-01	COMMONWEALTH'S ATTORNEY	326,869	581,189	642,000	642,000	396,614	61.78
111-0000-323.01-03	WITNESS FEES	0	108	0	0	0	.00
111-0000-323.02-01	SHERIFF	161,669	283,869	313,000	313,000	189,697	60.61
111-0000-323.02-02	SHERIFF MILEAGE	1,382	2,801	3,000	3,000	1,701	56.70
111-0000-323.03-01	COMMISSIONER OF REVENUE	47,607	85,635	96,000	96,000	67,738	70.56
111-0000-323.04-01	TREASURER	45,841	83,856	94,000	94,000	45,938	48.87
111-0000-323.06-01	REGISTRAR/ELECTORAL BOARD	7,035	57,768	40,000	42,730	3,790	8.87
111-0000-323.07-01	CLERK OF CIRCUIT COURT	173,422	307,433	324,000	324,000	194,745	60.11
111-0000-323.07-02	JURY REIMBURSEMENT	1,980	3,030	15,000	15,000	2,670	17.80
111-0000-323.10-01	SHARED-VICTIM WITNESS	12,505	25,010	24,000	24,000	12,505	52.10
* SHARED EXPENSES		778,310	1,430,699	1,551,000	1,553,730	915,397	58.92

SUB 4 STATE CATEGORICAL FUNDS

111-0000-324.02-35	DEPT OF HEALTH	1,162	1,162	0	0	0	.00
111-0000-324.04-04	JUV & DOMESTIC RELATIONS	5,282	11,592	8,000	8,000	5,466	68.32
111-0000-324.04-07	LITTER CONTROL	5,249	5,249	6,000	6,000	7,575	126.25
111-0000-324.04-12	FIRE PROGRAMS FUND	60,148	70,046	64,000	64,000	63,042	98.50
111-0000-324.04-13	TWO FOR LIFE GRANT	0	21,734	20,000	20,000	0	.00
111-0000-324.04-15	COMMISSION OF ARTS GRANT	0	0	5,000	5,000	0	.00
111-0000-324.04-17	HAZ MAT FUNDING	15,000	15,000	15,000	15,000	15,000	100.00
111-0000-324.04-23	POLICE	406,402	767,557	813,000	813,000	406,402	49.99
111-0000-324.04-25	JAIL	27,981	27,981	28,000	28,000	21,327	76.17

FUND 111 GENERAL OPERATING FUND
 BASIC 32 REVENUE FROM COMMONWEALTH
 SUB 4 STATE CATEGORICAL FUNDS

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2012 YTD 7/1 - 1/31	FY 2012 Year-end Actual	FY 2013 Original Budget	FY 2013 Amended Budget	FY 2013 YTD 7/1 - 1/31	FY 2013 % of Budget Realized
111-0000-324.04-42	HEALTH DEPARTMENT	147,052	241,014	252,000	252,000	143,637	57.00
111-0000-324.04-44	GENERAL DISTRICT COURT	3,760	7,779	7,000	7,000	3,610	51.56
111-0000-324.04-51	GOVERNOR'S OPPORTUNITY FD	0	300,000	0	0	0	.00
111-0000-324.05-23	ASSET FORFEITURE POLICE	2,470	5,077	0	0	2,735	.00
111-0000-324.05-45	ASSET FORFEITURE COMM ATY	92	233	0	0	627	.00
111-0000-324.10-38	WIRELESS E911 SERVICE BD	10,000	44,011	45,000	45,000	21,320	47.38
111-0000-324.10-61	PUBLIC ASSISTANCE GRANT	4,864	5,084	0	0	0	.00
STATE CATEGORICAL FUNDS		689,461	1,523,519	1,263,000	1,263,000	690,740	54.69

** REVENUE FROM COMMONWEALTH 3,319,456 5,961,301 5,804,000 5,806,730 4,437,983 76.43

BASIC 33 REVENUE FROM FEDERAL GOVT
 SUB 3 CATEGORICAL AID

111-0000-333.01-12	CONFISCATED DRUG MONIES	0	4	0	0	0	.00
111-0000-333.01-13	EMERGENCY SERVICE GRANT	0	0	0	0	8,905	.00
111-0000-333.01-14	ASSET FORFEITURE FUNDS	17,478	17,478	0	0	519	.00
111-0000-333.01-15	SAFE STREET ACT REIMBURSE	2,186	2,186	0	0	0	.00
111-0000-333.04-15	COMMISSION OF ARTS GRANT	0	5,000	0	0	0	.00
111-0000-333.06-04	CHILD/ADULT CARE FOOD	0	0	0	0	2,696	.00
111-0000-333.10-11	POLICE - DCJS GRANTS	9,714	19,876	0	0	6,486	38.22
111-0000-333.10-28	JUSTICE ASSISTANCE GRANTS	888	8,993	0	0	0	.00
111-0000-333.10-30	COPS	103,618	225,090	100,000	100,000	105,270	105.27
111-0000-333.10-40	CDBG GRANT	3,396	106,435	460,000	1,460,000	0	.00
111-0000-333.10-42	HAZ/MAT EMERGENCY PLANNIN	0	0	0	0	3,093	.00
111-0000-333.10-46	BALISTIC VEST PROGRAM	0	8,415	0	0	0	.00
111-0000-333.10-47	DEPT OF HISTORIC RESOURCE	14,921	24,914	0	0	0	.00
111-0000-333.10-49	VICTIM WITNESS	37,516	75,032	72,000	72,000	37,516	52.11
111-0000-333.10-55	DMV GRANTS	13,309	30,466	38,500	38,500	14,217	36.93
111-0000-333.10-61	PUBLIC ASSISTANCE GRANT	15,520	20,067	0	0	0	.00
111-0000-333.10-63	HOMELAND SECURITY/ODP	7,878	127,702	0	22,000	27,833	126.51
111-0000-333.10-64	NVRDTP GRANT	21,939	74,068	80,000	80,000	20,193	25.24

ACCOUNT NUMBER ACCOUNT DESCRIPTION
 FY 2012 YTD
 7/1 - 1/31

FY 2012 Year-end Actual

FY 2013 Original Budget

FY 2013 Amended Budget

FY 2013 YTD
 7/1 - 1/31

FY 2013 % of Budget Realized

FUND 111 GENERAL OPERATING FUND
 BASIC 33 REVENUE FROM FEDERAL GOVT
 SUB 3 CATEGORICAL AID
 CATEGORICAL AID

248,361 745,726 750,500 1,789,470 226,728 12.67

** REVENUE FROM FEDERAL GOVT 248,361 745,726 750,500 1,789,470 226,728 12.67

BASIC 34 OTHER FINANCING SOURCES
 SUB 1 NON-REVENUE RECEIPTS

111-0000-341.01-01 INSURANCE RECOVERIES 18,630 23,168 0 0 42,258 .00
 111-0000-341.02-04 BUILDINGS 0 386,296 0 0 0 .00
 111-0000-341.04-04 CDBG LOANS PRINCIPAL 158 236 0 0 37 .00
 111-0000-341.04-11 CDBG LOANS INTEREST 52 77 0 0 13 .00
 111-0000-341.04-20 PREMIUMS ON BONDS 3,995,350 3,995,350 0 0 4,837,787 .00
 111-0000-341.04-58 SALE OF BONDS 27,217,364 27,217,364 0 0 22,125,285 .00
 111-0000-341.05-27 UTILITIES FUND 800,000 1,600,000 1,600,000 1,600,000 800,000 50.00
 111-0000-341.05-45 OTDR 0 79,817 55,000 0 0 .00
 111-0000-341.06-01 FUND BALANCE 0 0 5,346,000 5,346,000 0 .00
 111-0000-341.07-01 SUPPLEMENTAL APPROP 0 0 774,265 774,265 0 .00

* NON-REVENUE RECEIPTS 32,031,554 33,302,308 7,001,000 7,720,265 27,805,380 360.16

** OTHER FINANCING SOURCES 32,031,554 33,302,308 7,001,000 7,720,265 27,805,380 360.16

*** GENERAL OPERATING FUND 65,770,064 102,915,174 79,770,000 81,691,965 64,723,262 79.23

65,770,064 102,915,174 79,770,000 81,691,965 64,723,262 79.23

(31,212,714)

34,557,350

48.80%

(26,916,307a)

37,760,190

47,349.6

ACCOUNT DESCRIPTION	FY 2012	FY 2012	FY 2013	FY 2013	FY 2013	FY 2013
	YTD 7/1 - 1/31	Year-end Actual	Original Budget	Amended Budget	YTD 7/1 - 1/31	% of Budget Realized
FUND 111 GENERAL OPERATING FUND						
DEPT 11 LEGISLATIVE						
CITY COUNCIL	61,117	89,904	95,400	95,400	69,834	73.20
CLERK OF COUNCIL	17,715	32,213	36,500	36,500	20,539	56.27
DEPT 12 GENERAL & FINANCIAL ADMIN						
CITY MANAGER	123,318	261,749	246,100	246,100	132,267	53.75
CITY ATTORNEY	165,385	317,498	351,000	351,000	166,167	47.34
INDEPENDENT AUDITORS	54,272	81,727	68,000	68,000	48,200	70.88
HUMAN RESOURCES	224,575	395,528	451,800	451,800	183,793	40.68
COMMISSIONER OF REVENUE	177,129	347,168	565,000	565,000	267,181	47.29
EQUALIZATION BOARD	1,847	0	0	0	0	.00
TAX FIELD OFFICE	29,352	55,154	0	0	0	.00
PERSONAL PROPERTY OFFICE	51,380	88,456	0	0	0	.00
TREASURER	234,073	425,811	451,500	451,500	249,321	55.22
FINANCE	289,229	623,808	650,500	650,500	281,199	43.23
INFORMATION TECHNOLOGY	458,560	1,116,245	1,525,100	1,525,100	557,771	36.57
RISK MANAGEMENT	35,339	46,114	47,000	47,000	48,535	103.27
** GENERAL & FINANCIAL ADMIN						
DEPT 13 BOARD OF ELECTIONS	1,844,459	3,759,258	4,356,000	4,356,000	1,934,433	44.41
* ELECTORAL BOARD OFFICIALS						
REGISTRAR	28,041	68,834	56,100	63,900	36,099	56.49
	54,511	101,559	122,700	122,700	60,544	49.34
** BOARD OF ELECTIONS						
DEPT 21 COURTS	82,552	170,393	178,800	186,600	96,643	51.79
* CIRCUIT COURT						
GENERAL DISTRICT COURT	39,231	77,313	79,800	79,800	43,160	54.08
J & D RELATION DIST COURT	9,997	16,610	31,600	31,600	10,667	33.76
CLERK OF CIRCUIT COURT	22,428	36,790	48,800	48,800	25,660	52.58
CITY SHERIFF	253,622	472,282	496,800	496,800	262,479	52.83
COURTHOUSE SECURITY	518,695	957,101	1,011,100	1,011,100	556,114	55.00
JUROR SERVICES	44,131	84,664	183,800	183,800	91,044	49.53
	20,000	20,000	23,000	23,000	20,000	86.96
** COURTS						
DEPT 22 COMMONWEALTH'S ATTORNEY	908,104	1,664,760	1,874,900	1,874,900	1,009,124	53.82

FUND 111 GENERAL OPERATING FUND	DEPT 22 COMMONWEALTH'S ATTORNEY	ACCOUNT DESCRIPTION	FY 2012	FY 2012	FY 2013	FY 2013	FY 2013	FY 2013
			YTD	Year-end	Original	Amended	YTD	% of Budget
			7/1 - 1/31	Actual	Budget	Budget	7/1 - 1/31	Realized
**	DEPT 31 LAW ENFORCEMENT & TRAFFIC	COMMONWEALTH'S ATTORNEY	611,222	1,138,960	1,184,900	1,184,900	662,382	55.90
*	POLICE DEPARTMENT		3,037,559	5,531,351	7,426,700	7,426,700	3,792,401	51.06
*	INVESTIGATION DIVISION		684,664	1,307,545	0	0	0	.00
*	POLICE GRANTS		201,666	385,547	234,500	261,965	197,650	75.45
**	DEPT 32 FIRE AND RESCUE SERVICES	LAW ENFORCEMENT & TRAFFIC	3,923,890	7,224,443	7,661,200	7,688,665	3,990,051	51.90
*	FIRE DEPARTMENT		2,309,803	4,331,668	4,726,500	4,726,500	2,572,805	54.43
*	EMERGENCY MEDICAL		26,542	48,645	61,200	61,200	30,523	49.87
*	FIRE GRANTS		83,096	177,433	0	0	25,458	.00
**	DEPT 33 CORRECTION AND DETENTION	FIRE AND RESCUE SERVICES	2,419,441	4,557,746	4,787,700	4,787,700	2,628,786	54.91
*	PROBATION OFFICE		1,204	1,745	3,200	3,200	1,434	44.81
**	DEPT 34 INSPECTIONS	CORRECTION AND DETENTION	1,204	1,745	3,200	3,200	1,434	44.81
*	INSPECTIONS DEPARTMENT		242,154	436,399	489,700	489,700	240,548	49.12
**	DEPT 35 OTHER PROTECTION	INSPECTIONS	242,154	436,399	489,700	489,700	240,548	49.12
*	ANIMAL WARDEN		68,616	133,536	135,800	135,800	70,909	52.22
*	EMERGENCY SERVICES CD		23,710	49,575	47,100	69,100	49,510	71.65
*	HAZARDOUS MATERIAL		17,465	37,012	41,800	41,800	36,699	87.80
*	COMMUNICATION OPERATIONS		473,346	844,811	993,700	993,700	535,502	53.89
**	DEPT 41 MAINT HIGHWAY, STREET ETC	OTHER PROTECTION	583,137	1,064,934	1,218,400	1,240,400	692,621	55.84
*	STREETS		7,279	23,133	28,600	28,600	17,463	61.06
*	STORM DRAINAGE		0	39,245	35,000	35,000	12,840	36.69
*	LOUDDON MALL		32,775	54,795	76,000	76,000	31,995	42.10

FUND 111 GENERAL OPERATING FUND DEPT 41 MAINT HIGHWAY, STREET ETC	FY 2012		FY 2013		FY 2013		FY 2013 % of Budget Realized
	YTD 7/1 - 1/31	Year-end Actual	Original Budget	Amended Budget	YTD 7/1 - 1/31		
** MAINT HIGHWAY, STREET ETC	40,054	117,173	139,600	139,600	62,299	44.63	
DEPT 42 SANITARY & WASTE REMOVAL							
* REFUSE COLLECTION	682,996	1,217,528	1,295,800	1,295,800	714,232	55.12	
** SANITARY & WASTE REMOVAL	682,996	1,217,528	1,295,800	1,295,800	714,232	55.12	
DEPT 43 MAINT GENERAL BLDG/GROUND							
* JOINT JUDICIAL CENTER	310,750	685,664	690,300	690,300	257,623	37.32	
* FACILITIES MAINTENANCE	659,686	1,121,856	1,162,800	1,162,800	633,606	54.49	
** MAINT GENERAL BLDG/GROUND	970,435	1,807,520	1,853,100	1,853,100	891,229	48.09	
DEPT 53 WELFARE/SOCIAL SERVICES							
* ELDERLY - PROP TAX RELIEF	0	517,640	520,000	520,000	0	.00	
** WELFARE/SOCIAL SERVICES	0	517,640	520,000	520,000	0	.00	
DEPT 71 PARKS & RECREATION							
* SUPERVISION PARKS & REC	0	0	470,700	470,700	236,433	50.23	
* MAINTENANCE	0	0	825,310	825,310	933,494	113.11	
* RECREATION ACTIVITIES	0	0	83,400	83,400	44,615	53.50	
* OUTDOOR SWIMMING POOL	0	0	97,950	97,950	62,018	63.32	
* INDOOR POOL	0	0	223,500	223,500	85,367	38.20	
* WAR MEMORIAL & ADDITONS	0	0	420,900	420,900	209,843	49.86	
* SCHOOL AGE CHILD CARE	0	0	182,300	182,300	94,325	51.74	
* ATHLETIC PROGRAMS	0	0	193,040	193,040	93,558	48.47	
** PARKS & RECREATION	0	0	2,497,100	2,497,100	1,759,655	70.47	
DEPT 72 CULTURAL ENRICHMENT							
* APPLE BLOSSOM FESTIVAL	0	47,389	29,500	29,500	1,045	3.54	
** CULTURAL ENRICHMENT	0	47,389	29,500	29,500	1,045	3.54	
DEPT 81 PLANNING & COMMUNITY DEVL							
* PLANNING DEPARTMENT	115,214	229,089	263,500	263,500	111,154	42.18	
* REDEVELOPMENT & HOUSING	57,298	153,957	460,200	1,460,200	518,111	35.48	
* ZONING DEPARTMENT	141,308	234,445	182,600	182,600	65,499	35.87	
* ECONOMIC DEVELOPMENT	80,840	881,583	736,000	1,386,000	176,929	12.77	

ACCOUNT DESCRIPTION	FY 2012	FY 2012	FY 2013	FY 2013	FY 2013	FY 2013	FY 2013
	YTD 7/1 - 1/31	Year-end Actual	Original Budget	Amended Budget	YTD 7/1 - 1/31	% of Budget Realized	
FUND 111 GENERAL OPERATING FUND							
DEPT 81 PLANNING & COMMUNITY DEVL							
* OLD TOWN WINCHESTER ADMIN	0	0	92,900	217,100	104,906	48.32	
* GIS	56,350	91,235	90,300	90,300	48,484	53.69	
** PLANNING & COMMUNITY DEVL	451,011	1,590,309	1,825,500	3,599,700	1,025,084	28.48	
DEPT 91 NONDEPARTMENTAL							
* OTHER	519,740	252,364	692,000	692,000	82,173	11.87	
* OUTSIDE AGENCIES	498,585	811,753	831,681	831,681	444,477	53.44	
* AGENCY ADMINISTRATION	3,139,316	4,271,146	4,166,317	4,256,817	3,098,959	72.80	
** NONDEPARTMENTAL	4,157,641	5,335,263	5,689,998	5,780,498	3,625,609	62.72	
DEPT 93 TRANSFERS							
* INTERFUND	15,714,360	30,603,220	34,503,202	34,503,202	15,597,076	45.20	
** TRANSFERS	15,714,360	30,603,220	34,503,202	34,503,202	15,597,076	45.20	
DEPT 95 DEBT SERVICE							
* DEBT	38,255,465	40,050,727	9,529,500	9,529,500	34,245,747	359.37	
** DEBT SERVICE	38,255,465	40,050,727	9,529,500	9,529,500	34,245,747	359.37	
*** GENERAL OPERATING FUND	70,966,958	101,427,524	79,770,000	81,691,965	69,268,369	84.79	

39,769,113
 55,089.2
 (26,947,126)
 42,321,243 53.05