



CITY COUNCIL WORK SESSION

**TUESDAY, SEPTEMBER 8, 2015
7:00 PM**

COUNCIL CHAMBERS - ROUSS CITY HALL

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENTS

3. AGENDA

- 3.1. O-2015-21:** ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,200,000, TO FINANCE THE COSTS OF CERTAIN CAPITAL IMPROVEMENT PROJECTS (PAGES 2-6)
- 3.2. R-2015-30:** RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF (PAGES 7-10)
- 3.3. R-2015-31:** RESOLUTION TO ACCEPT THE VIRGINIA DEPARTMENT OF FIRE PROGRAMS (VDFP) BURN BUILDING GRANT (PAGES 11-24)
- 3.4. BAR-15-336:** APPEAL OF BAR DECISION REGARDING WINDOW REPLACEMENT FOR SAM SIMPSON AT 210 S. WASHINGTON ST. (PAGES 25-43)

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

RESOLUTION ___ ORDINANCE DESCRIPTION/PRESENTATION ___

ITEM TITLE: ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,200,000, TO FINANCE THE COSTS OF CERTAIN CAPITAL IMPROVEMENT PROJECTS

PUBLIC HEARING DATE: October 13, 2015 at 12:00 AM

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

Review:

Mary Blowe	Completed	09/01/2015 3:12 PM
Anthony Williams	Completed	09/01/2015 3:30 PM
Eden Freeman	Completed	09/01/2015 4:37 PM

Mary Blowe

Mary Blowe, Chief Financial Officer

9/1/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager

9/1/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Chief Financial Officer
Date: September 8, 2015
Re: ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,200,000, TO FINANCE THE COSTS OF CERTAIN CAPITAL IMPROVEMENT PROJECTS

THE ISSUE:

As part of the budget process the following projects required bond proceeds:

- JJC Improvements- \$3,700,000
- City Hall Renovations & HVAC replacement- \$1,315,000
- Valley Avenue/Whitlock Drainage- \$385,000
- Meadow Branch Extension- \$600,000
- JKES furniture & fixtures- \$1,000,000

RELATIONSHIP TO STRATEGIC PLAN:

With the projects listed above we are supporting the goal to promote and accelerate revitalization of targeted areas within the City. Also, we are improving City services and advancing the City's strategic plan goal by promoting a culture of transparency, *efficiency and innovation*.

BACKGROUND:

During the budget process, the projects listed above were approved to be funded with bonds. Since this is a small issuance, we are going to introduce both a resolution (for a private placement) and an ordinance (for a public offering). So, if we do not receive an acceptable bid for our bonds with the private placement, we are in a position to go forward with a public offering. The document that is not needed with automatically expire upon closing.

BUDGET IMPACT:

Maturity Date	Principal
9/15/2016	\$ 275,000
9/15/2017	\$ 280,000
9/15/2018	\$ 290,000
9/15/2019	\$ 300,000
9/15/2020	\$ 305,000
9/15/2021	\$ 315,000
9/15/2022	\$ 325,000
9/15/2023	\$ 330,000

9/15/2024	\$ 340,000
9/15/2025	\$ 350,000
9/15/2026	\$ 360,000
9/15/2027	\$ 370,000
9/15/2028	\$ 380,000
9/15/2029	\$ 390,000
9/15/2030	\$ 405,000
9/15/2031	\$ 415,000
9/15/2032	\$ 425,000
9/15/2033	\$ 435,000
9/15/2034	\$ 450,000
9/15/2035	\$ 460,000
	<u>\$ 7,200,000</u>

Interest on be determined by either the Private placement bid, or public offering.

OPTIONS:

Two options are being presented, a private placement or public offering. After the RFP's are evaluated the CFO will bring the offers (rates) forward to Council for final approval.

RECOMMENDATIONS:

I recommend we run the resolution and ordinance during the same time frame to be able to achieve the best rate possible on our 2015 bond issuance.

ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,200,000, TO FINANCE THE COSTS OF CERTAIN CAPITAL IMPROVEMENT PROJECTS

WHEREAS, the Common Council of the City desires to issue general obligation bonds to finance the costs of certain capital improvement projects for the City, including (but not limited to) one or more of the following projects: the acquisition, construction, extension, renovation and equipping of joint judicial center improvements, City Hall renovations and HVAC replacement, road, street and sidewalk improvements, and public school improvements (collectively, the “Project”);

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WINCHESTER, VIRGINIA:

1. Pursuant to the City Charter and the Public Finance Act of 1991, there are hereby authorized to be issued and sold general obligation bonds (the “Bonds”) of the City in an aggregate principal amount not to exceed \$7,200,000 to provide funds, together with other funds as may be available, to finance costs of the Project and to pay costs incurred in connection with issuing the Bonds.

2. The Bonds shall bear such date or dates, mature at such time or times not exceeding 40 years from their dates, bear interest at such rate or rates, be in such denominations and form, be executed in such manner and be sold in one or more series at such time or times and in such manner as the Common Council may hereafter provide by appropriate resolution or resolutions.

3. The Bonds shall be general obligations of the City for the payment of principal of and premium, if any, and interest on which its full faith and credit shall be irrevocably pledged.

4. The Clerk of the Common Council, in collaboration with the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this ordinance in the Circuit Court of the City.

5. This ordinance shall take effect immediately.

Ordinance No. ____-2015.

The undersigned Clerk of the Common Council of the City of Winchester, Virginia, hereby certifies that (a) the foregoing ordinance was introduced at a regular meeting of the Common Council on September 22, 2015, and was adopted at a regular meeting of the Common Council on October 13, 2015, and (b) the foregoing ordinance constitutes a true and correct extract from the minutes of the October 13, 2015 regular meeting of the Common Council, and of the whole thereof so far as applicable to the matters referred to in such extract.

WITNESS my signature and the seal of the City of Winchester, Virginia, this ____ day of October, 2015.

(SEAL)

Clerk of the Common Council, City of
Winchester, Virginia

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

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Review:

Mary Blowe	Completed	09/01/2015 3:14 PM
Anthony Williams	Completed	09/01/2015 3:30 PM
Eden Freeman	Completed	09/01/2015 5:29 PM

Mary Blowe

Mary Blowe, Chief Financial Officer

9/1/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager

9/1/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Chief Financial Officer
Date: September 8, 2015
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RECOMMENDATIONS:

I recommend we run the resolution and ordinance during the same time frame to be able to achieve the best rate possible on our 2015 bond issuance.

**RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A
GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF
WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF
\$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT
THEREOF**

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: Resolution to Accept the Virginia Department of Fire Programs (VD FP) Burn Building Grant

PUBLIC HEARING DATE:

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

Review:

Allen Baldwin	Completed	09/01/2015 2:40 PM
Mary Blowe	Completed	09/01/2015 2:57 PM
Anthony Williams	Completed	09/01/2015 3:14 PM
Eden Freeman	Completed	09/03/2015 10:46 AM

Allen Baldwin

Allen Baldwin, Chief of Fire & Rescue

9/1/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager

9/3/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Allen Baldwin, Chief of Fire & Rescue
Date: September 8, 2015
Re: Resolution to Accept the Virginia Department of Fire Programs (VDFP) Burn Building Grant

THE ISSUE:

The Winchester Regional Training Center burn building constructed in the early 1980's has reached its life expectancy for the training of firefighters. This building is utilized to train and certify firefighters in live fire scenarios. The building has been deemed non-compliant by the Virginia Department of Fire Programs (VDFP) as it no longer meets the requirements of NFPA 1001, 1402, and 1403 standards. In addition, the burn building is not considered to be structurally sound due to its age, condition and use and is no longer considered safe for live fire evolutions.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3: Advance Quality of Life for All Winchester Residents.

BACKGROUND:

The Winchester Regional Training Center began operation in 1966 as an effort to provide firefighter training to the City of Winchester firefighters and surrounding jurisdictions. Modifications to this center have been made over the years with the assistance of VDFP through state grant funds. The burn building in question has seen significant rehabilitation over the years to prolong its life. With the evolution of NFPA standards, the certifying process for firefighters has placed higher demands on facilities to upgrade to meet these requirements.

Currently, the FY2017 budget contains a capital project to replace this building in the amount of \$600,000 with additional monies coming from VDFP in the amount of \$430,000 for a total of \$1,030,000. The City Manager advised the WFRD to seek funding from this grant and the city was awarded a \$480,000 grant from VDFP to construct a new building. In addition, fire and rescue leadership from Clarke County and Frederick County have provided letters of support for this project although no amount of financial support has been defined at this time. We anticipate both entities will contribute financially once we have better cost estimates. The construction of this project will be subject to competitive bidding and the final cost of construction may be less than currently estimated.

BUDGET IMPACT:

Staff currently estimates that an additional amount of \$300,000 from the participating jurisdictions will be needed as the cost sharing portion to complete the building bringing the total project to \$780,000. To begin this project, a supplemental appropriation for this project will be sent forward to Council in the fall.

The performance period for the grant is 20 years with required yearly inspections by certified engineers as well as ongoing repairs that can be supplemented by additional VDFP grant monies. Limited budget requests may be made necessary in future years to offset the required inspection costs and potential repairs.

OPTIONS:

Option 1: Authorizes the City Manager to accept and execute any agreements related to the acceptance of the VDFP grant to design and construct a burn building and to administer all of the necessary reporting duties related to this grant and authorize the supplemental appropriations at a later date.

Option 2: Refusal of the award.

RECOMMENDATIONS:

It is recommended that the City Council authorize the acceptance of the \$480,000 grant award from the VDFP and direct staff to begin planning and estimating efforts to construct a new burn building at the Winchester Regional Training Center.

**RESOLUTION TO ACCEPT THE VIRGINIA DEPARTMENT OF FIRE
PROGRAMS (VDFP) BURN BUILDING GRANT**

**A RESOLUTION TO AUTHORIZE THE
CITY MANAGER TO ACCEPT AND EXECUTE
THE VDFP BURN BUILDING GRANT AWARD**

WHEREAS, the City of Winchester Fire and Rescue Department is in need of a new regional burn building facility; and

WHEREAS, the Virginia Department of Fire Programs (VDFP) solicited applications for their Burn Building Grant; and

WHEREAS, the City of Winchester submitted an application to VDFP that requested funding to assist the City of Winchester's Fire and Rescue Department in the design and construction of a new burn building facility; and,

WHEREAS, VDFP received the City of burn building grant application and awarded the City of Winchester with \$480,000 to design and construct a burn building.

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Winchester, Virginia hereby authorizes the City Manager to accept and execute any documents related to the acceptance and management of the VDFP grant to design and construct a burn building and to administer all of the necessary reporting duties related to this grant.

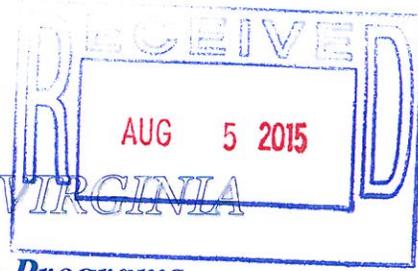


COMMONWEALTH of VIRGINIA

Virginia Department of Fire Programs

Melvin D Carter
EXECUTIVE DIRECTOR

Finance Bra:
1005 Technology Park D
Glen Allen, VA 23059-4
Phone: 804/ 371-0
Fax: 804/ 371-3



August 3, 2015

Chief J.D. Orndorff
Winchester City
231 E Piccadilly Street
Winchester, VA 22601

Dear Chief Orndorff:

On behalf of the Virginia Fire Services Board, we are pleased to advise **Winchester**, Virginia of a **grant award of up to \$480,000 for the new construction** of a burn building as a prop to assist in training the fire service for its jurisdiction. The grant award is allocated as up to \$450,000 for the new construction and up to \$30,000 for architect and/or engineering services, totaling \$480,000.

According to the amended application submitted, the City has elected to construct its burn building according to the minimum standards specified in Prototype I, Class A.

This award is effective: FY2016

Accordingly, the **City has until August 31, 2016 to submit a valid building permit and begin construction** consistent with the terms and conditions of the mutually executed Disbursement Agreement. Following such date, the City will have an additional twelve (12) months to complete construction and collect the balance of their award. **The project expiration date is marked as August 31, 2017.** 

Be advised that all documents are available on our website at www.vafire.com under the Grants and Local Aid: Burn Building link, including the VFSB Burn Building Policy which is effective as of July 1, 2013. The City is required to review these documents very carefully in order to progress with its project in compliance with the terms and conditions of this grant award and the Policy that governs the Burn Building Grant Program.

In accordance with the Burn Building Policy, the City will be required to attend an Orientation Meeting at the Division 2 Office in Culpeper, Virginia that must be held within thirty (30) days of award notification. The purpose of this meeting is to introduce VDFP staff to new grants recipients, provide an overview of the Burn Building Grant Program, and offer an opportunity for grants recipients to ask questions about the grants process. **The City must schedule the Orientation Meeting by September 3, 2015.**

Two originals of the Burn Building Disbursement Agreement are included. The City Manager must sign both originals and have them sent to my attention. Both originals will be counter signed by the Virginia Department of Fire Programs. One original will be returned to the City for Local file retention. **No funds disbursements will be authorized or released without the executed disbursement Agreement.**

Funds disbursement for new construction projects will be made in five (5) installments upon notification by the jurisdiction to the Agency. Once a valid building permit has been submitted and an executed Agreement is on file, the jurisdiction is eligible to draw the first 25% of the construction grant. Once A/E services are complete, jurisdictions may also request reimbursement for such services up to the amount awarded by the VFSB not to exceed \$30,000. Remaining funds disbursements for the construction grant will be made upon jurisdiction request on the percentage of completion method at 50%, 75% and 100% completion. In order to be eligible for final payment, the prop must be placed in operation. It is the responsibility of the jurisdiction to maintain all such records subject to audit by this Agency or its assignees for a period of five (5) years following the date of the last transfer of award funds to the grant recipient.

If you have any questions, feel free to contact me at my office 804/249-1958, or via email at Joe.Thompson@vdfp.virginia.gov.

Respectfully,



Joseph Thompson
Grants & Local Aid Manager

Enclosure

c: Eden Freeman, City Manager
Walter Bailey, Chair, Virginia Fire Services Board
Robert Miner, Chair, Burn Building Subcommittee
Melvin D Carter, Executive Director, Virginia Department of Fire Programs
John Fugman, Division Manager, Virginia Department of Fire Program

VIRGINIA FIRE SERVICE GRANT PROGRAM AGREEMENT

Grant for Constructing or Repairing Burn Building or Fire Service Training Facilities

Statutory Authority: §38.2-401 of the *Code of Virginia*

This Grant Agreement, made as of the _____ day of _____, by and among the VIRGINIA DEPARTMENT OF FIRE PROGRAMS (the "Department"), acting as authorized on behalf of the Virginia Fire Services Board (the "Board"), and _____ City of Winchester _____, (the "Grantee"), governs the distribution and use of Fire Services Grant Program moneys, as provided for in §38.2-401 (D) of the *Code of Virginia*.

WHEREAS, §38.2-401 (D) of the *Code of Virginia*, authorizes the Board to determine the distribution of grants to provide regional fire services training facilities; to finance the Virginia Fire Incident Reporting System; and to build or repair Burn Buildings; and

WHEREAS, the Grantee has submitted an application for a grant from the Fire Services Grant Fund Program to assist in funding the construction of or repair to a burn building, or funding the construction of or repair to a regional fire service training facility, City of Winchester Burn Building together with plans, specifications and project narrative for such project narrative for such project, more specifically described in Attachment A hereto (the "Project"); and

WHEREAS, the Board has approved the Project and has authorized the Department to act on its behalf in the distribution and administration of grants;

NOW, THEREFORE, pursuant to the authority granted to the Board and Department by §38.2-401 (D) of the *Code of Virginia*, and in consideration of the Grantee's adoption and ratification of the representations, terms and conditions as herein provided, and benefits to accrue to the Commonwealth and public from the accomplishment of this Project, the department offers a grant of \$ 480,000.00 to pay eligible Project cost subject to the terms and conditions listed below:

- 1 These funds shall be disbursed by the Department to the Grantee after the Agreement has been signed.
- 2 These funds shall be deposited in an interest-bearing account or normal risk and with a demand restriction, if any, not exceeding 30 calendar days until they are needed. The Grantee must be able to account for both the principle and the interest amounts. Any unused funds, including interest, shall be returned to the Department.
- 3 Unless an extension has been granted by the Department, the construction and/or repair tasks shall be completed, and all documentation pertaining to such activities shall be submitted to the Department on or before 12 months after the grant funds have been disbursed.
- 4 The Department may grant an extension of up to three months beyond the 12 month period to complete the construction and/or repairs, and to submit documentation. Any extension beyond three months must be submitted to the Virginia Fire Services Board for approval.

- 5 The Grantee agrees to carry out and complete all phases of the Project strictly in accordance with the plans, specifications and project narrative. The plans, specifications and project narrative may only be revised or modified with the Board or Department's prior written approval. The Grantee agrees to allow the Board representative access to the Project at all reasonable times to verify compliance with the approved plans, specifications and project narrative.
- 6 The Grantee agrees that no construction or repair work shall commence until the following types of insurance are in place for entities performing any such work, including subcontractors, and these types of insurance shall be maintained at all times while construction or repair work is being performed: (a) an All Risk Builders Risk Property insurance policy based on the completed value of all such work, with exclusions for design errors or defects removed by policy endorsement, and the locality shall be named additional insured in such policy; (b) a Workers' Compensation and Employer's Liability insurance policy covering all workers or employees engaged in such work, and, in case any such work is sublet, each subcontractor shall, similarly, provide Workers' Compensation and Employer's Liability Insurance for all of the subcontractor's workers or employees who are engaged in the work, and in amounts not less than the minimums required by the Code of Virginia and other applicable laws and regulations; (c) a Comprehensive Commercial General Liability insurance policy that provides a minimum level of \$500,000 combined single limit per occurrence, and the locality shall be named as an additional insured party in such policy; and (d) a Comprehensive Automobile Liability insurance policy that will insure against claims for property damage that may arise from the operation of motor vehicles associated with the construction or repair work, with a minimum level of \$500,000 combined single limit per occurrence. Before the commencement of any work, the locality must submit to the VDFP a Certificate of Coverage or Certificate of Insurance indicating that these types of insurance are in effect. All insurance shall be provided by insurers who are licensed to provide insurance in the Commonwealth of Virginia.
- 7 The Grantee agrees to operate and maintain the Project, now existing or built in whole or in part as a result of the Project, as a training facility for a period of 20 years from completion of this Project.
- 8 The Grantee agrees to operate, maintain and use the Project in accordance with the policies adopted by the Board, as amended from time to time.
- 9 Subject to lawful appropriation, the Grantee agrees to repay to the Department a sum which is equal to the pro-rata share (computed monthly) of all monies received under this Grant Agreement based on the period of operation and maintenance as specified in paragraph 7 above in the event that the Project ceases to be available for such specified training purposes prior to the expiration of such period, if such change in availability is due to an act or omission within the sole and direct control of the Grantee.
- 10 Grantee hereby agrees that the Project shall be maintained and operated at all times in a manner designed to prolong the useful life of the Project and that no condition will be allowed to exist that will, or is likely to, lead to a shorter than expected useful life for the Project. The Grantee further agrees to ensure appropriate encroachment factors of surrounding land for a period of 5 years from the completion date of the Project.

- 11 The Grantee represents to the Department that (a) its authorized representative whose signature appears below has read and understands the referenced provisions of the Code of Virginia and the Board's policy entitled "VFSB Burn Building Policy: Fire Service Grant Program, Grant Awards to Construct, Renovate, or Repair Burn Buildings throughout the Commonwealth", adopted thereunder, as amended from time to time, which are hereby incorporated into this Grant Agreement by reference in its entirety; (b) it agrees to comply with all applicable provisions of the Code of Virginia, including if appropriate, the Virginia Public Procurement Act that governs construction of public facilities by private entities. (c) It is duly authorized to enter into this Grant Agreement and to perform its obligations hereunder and has taken all necessary action to authorize such execution and performance.
- 12 This grant will be fully liquidated in public benefits to the Commonwealth 20 years from the completion date of the Project and the Grantee shall have no further financial obligation to the Commonwealth under this Grant Agreement upon the expiration of such time.
- 13 To the extent permitted by law, the Grantee shall retain title to the Project and underlying land, and the Grantee shall not release or transfer title without first receiving written approval from the Board prior to such release, which approval shall not be unreasonably withheld.
- 14 The Grantee agrees to retain all books, records and other documents relative to expenditures of Grant Funds for five years from the completion date of the Project. The Board, the Department and/or State auditors shall have full access to and the right to audit any of these records during the above-referenced period.
- 15 The Department shall be bound hereunder only to the extent of the Fire Services Grant Funds available or which may hereafter become available for the purpose of this Grant Agreement.
- 16 This writing constitutes the entire Grant agreement between the parties, supersedes any existing agreement among the parties hereto relative to the matters contained herein, and may be modified only by written amendment executed by all parties.
- 17 This agreement shall in all respects be governed by the laws of the Commonwealth of Virginia without regard to the legislative or judicial conflict of laws rules of any state.
- 18 If any provision of this Grant Agreement is determined to be invalid by a court of competent jurisdiction, it shall not render the remaining portions of this Grant Agreement void or unenforceable.
- 19 This Grant Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.
- 20 When any written notice or report is required or may be given hereunder, it will be deemed sufficient if the party giving such notice, request, or report delivers the same to the other party by U.S. mail, postage prepaid, or by other superior mailing, or by hand delivery. All notices, request, demands or reports delivered by mail or by hand will be deemed to have been given when received by any party hereto at the following addresses:
- Grantee: Such office or mailing address as stated on the Point of Contact Form attached hereto or to such other address of which the Grantee has notified the other parties hereto in writing.
- Agency and Board: Virginia Department of Fire Programs
Attn: Burn Building Grant Administration
1005 Technology Park Drive
Glen Allen VA 23059-4500
- or to such other address of which the Department has notified the Grantee in writing.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Grant Agreement as of the date first above written, intending to be bound thereby.

DEPARTMENT OF FIRE PROGRAMS

BY:

Signature of Authorized Representative Date

Name: _____

Title: _____

GRANTEE

The Grantee, City of Winchester does hereby accept and ratify all terms, conditions and agreements contained in this Grant Agreement and does hereby accept the grant and by such acceptance agrees to all of the terms and conditions hereof.

BY:

Signature of Authorized Representative Date

Name: Eden Freeman

Title: City Manager

Attachment: Grant Award (R-2015-31 : Virginia Department of Fire Programs Burn Building Grant)

VIRGINIA FIRE SERVICE GRANT PROGRAM AGREEMENT

Grant for Constructing or Repairing Burn Building or Fire Service Training Facilities

Statutory Authority: §38.2-401 of the *Code of Virginia*

This Grant Agreement, made as of the _____ day of _____, by and among the VIRGINIA DEPARTMENT OF FIRE PROGRAMS (the "Department"), acting as authorized on behalf of the Virginia Fire Services Board (the "Board"), and _____ City of Winchester _____, (the "Grantee"), governs the distribution and use of Fire Services Grant Program moneys, as provided for in §38.2-401 (D) of the *Code of Virginia*.

WHEREAS, §38.2-401 (D) of the *Code of Virginia*, authorizes the Board to determine the distribution of grants to provide regional fire services training facilities; to finance the Virginia Fire Incident Reporting System; and to build or repair Burn Buildings; and

WHEREAS, the Grantee has submitted an application for a grant from the Fire Services Grant Fund Program to assist in funding the construction of or repair to a burn building, or funding the construction of or repair to a regional fire service training facility, City of Winchester Burn Building together with plans, specifications and project narrative for such project, more specifically described in Attachment A hereto (the "Project"); and

WHEREAS, the Board has approved the Project and has authorized the Department to act on its behalf in the distribution and administration of grants;

NOW, THEREFORE, pursuant to the authority granted to the Board and Department by §38.2-401 (D) of the *Code of Virginia*, and in consideration of the Grantee's adoption and ratification of the representations, terms and conditions as herein provided, and benefits to accrue to the Commonwealth and public from the accomplishment of this Project, the department offers a grant of \$ 480,000.00 to pay eligible Project cost subject to the terms and conditions listed below:

- 1 These funds shall be disbursed by the Department to the Grantee after the Agreement has been signed.
- 2 These funds shall be deposited in an interest-bearing account or normal risk and with a demand restriction, if any, not exceeding 30 calendar days until they are needed. The Grantee must be able to account for both the principle and the interest amounts. Any unused funds, including interest, shall be returned to the Department.
- 3 Unless an extension has been granted by the Department, the construction and/or repair tasks shall be completed, and all documentation pertaining to such activities shall be submitted to the Department on or before 12 months after the grant funds have been disbursed.
- 4 The Department may grant an extension of up to three months beyond the 12 month period to complete the construction and/or repairs, and to submit documentation. Any extension beyond three months must be submitted to the Virginia Fire Services Board for approval.

- 5 The Grantee agrees to carry out and complete all phases of the Project strictly in accordance with the plans, specifications and project narrative. The plans, specifications and project narrative may only be revised or modified with the Board or Department's prior written approval. The Grantee agrees to allow the Board representative access to the Project at all reasonable times to verify compliance with the approved plans, specifications and project narrative.
- 6 The Grantee agrees that no construction or repair work shall commence until the following types of insurance are in place for entities performing any such work, including subcontractors, and these types of insurance shall be maintained at all times while construction or repair work is being performed: (a) an All Risk Builders Risk Property insurance policy based on the completed value of all such work, with exclusions for design errors or defects removed by policy endorsement, and the locality shall be named additional insured in such policy; (b) a Workers' Compensation and Employer's Liability insurance policy covering all workers or employees engaged in such work, and, in case any such work is sublet, each subcontractor shall, similarly, provide Workers' Compensation and Employer's Liability Insurance for all of the subcontractor's workers or employees who are engaged in the work, and in amounts not less than the minimums required by the Code of Virginia and other applicable laws and regulations; (c) a Comprehensive Commercial General Liability insurance policy that provides a minimum level of \$500,000 combined single limit per occurrence, and the locality shall be named as an additional insured party in such policy; and (d) a Comprehensive Automobile Liability insurance policy that will insure against claims for property damage that may arise from the operation of motor vehicles associated with the construction or repair work, with a minimum level of \$500,000 combined single limit per occurrence. Before the commencement of any work, the locality must submit to the VDFP a Certificate of Coverage or Certificate of Insurance indicating that these types of insurance are in effect. All insurance shall be provided by insurers who are licensed to provide insurance in the Commonwealth of Virginia.
- 7 The Grantee agrees to operate and maintain the Project, now existing or built in whole or in part as a result of the Project, as a training facility for a period of 20 years from completion of this Project.
- 8 The Grantee agrees to operate, maintain and use the Project in accordance with the policies adopted by the Board, as amended from time to time.
- 9 Subject to lawful appropriation, the Grantee agrees to repay to the Department a sum which is equal to the pro-rata share (computed monthly) of all monies received under this Grant Agreement based on the period of operation and maintenance as specified in paragraph 7 above in the event that the Project ceases to be available for such specified training purposes prior to the expiration of such period, if such change in availability is due to an act or omission within the sole and direct control of the Grantee.
- 10 Grantee hereby agrees that the Project shall be maintained and operated at all times in a manner designed to prolong the useful life of the Project and that no condition will be allowed to exist that will, or is likely to, lead to a shorter than expected useful life for the Project. The Grantee further agrees to ensure appropriate encroachment factors of surrounding land for a period of 5 years from the completion date of the Project.

- 11 The Grantee represents to the Department that (a) its authorized representative whose signature appears below has read and understands the referenced provisions of the Code of Virginia and the Board's policy entitled "VFSB Burn Building Policy: Fire Service Grant Program, Grant Awards to Construct, Renovate, or Repair Burn Buildings throughout the Commonwealth", adopted thereunder, as amended from time to time, which are hereby incorporated into this Grant Agreement by reference in its entirety; (b) it agrees to comply with all applicable provisions of the Code of Virginia, including if appropriate, the Virginia Public Procurement Act that governs construction of public facilities by private entities. (c) It is duly authorized to enter into this Grant Agreement and to perform its obligations hereunder and has taken all necessary action to authorize such execution and performance.
- 12 This grant will be fully liquidated in public benefits to the Commonwealth 20 years from the completion date of the Project and the Grantee shall have no further financial obligation to the Commonwealth under this Grant Agreement upon the expiration of such time.
- 13 To the extent permitted by law, the Grantee shall retain title to the Project and underlying land, and the Grantee shall not release or transfer title without first receiving written approval from the Board prior to such release, which approval shall not be unreasonably withheld.
- 14 The Grantee agrees to retain all books, records and other documents relative to expenditures of Grant Funds for five years from the completion date of the Project. The Board, the Department and/or State auditors shall have full access to and the right to audit any of these records during the above-referenced period.
- 15 The Department shall be bound hereunder only to the extent of the Fire Services Grant Funds available or which may hereafter become available for the purpose of this Grant Agreement.
- 16 This writing constitutes the entire Grant agreement between the parties, supersedes any existing agreement among the parties hereto relative to the matters contained herein, and may be modified only by written amendment executed by all parties.
- 17 This agreement shall in all respects be governed by the laws of the Commonwealth of Virginia without regard to the legislative or judicial conflict of laws rules of any state.
- 18 If any provision of this Grant Agreement is determined to be invalid by a court of competent jurisdiction, it shall not render the remaining portions of this Grant Agreement void or unenforceable.
- 19 This Grant Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.
- 20 When any written notice or report is required or may be given hereunder, it will be deemed sufficient if the party giving such notice, request, or report delivers the same to the other party by U.S. mail, postage prepaid, or by other superior mailing, or by hand delivery. All notices, request, demands or reports delivered by mail or by hand will be deemed to have been given when received by any party hereto at the following addresses:
- Grantee: Such office or mailing address as stated on the Point of Contact Form attached hereto or to such other address of which the Grantee has notified the other parties hereto in writing.
- Agency and Board: Virginia Department of Fire Programs
Attn: Burn Building Grant Administration
1005 Technology Park Drive
Glen Allen VA 23059-4500
- or to such other address of which the Department has notified the Grantee in writing.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Grant Agreement as of the date first above written, intending to be bound thereby.

DEPARTMENT OF FIRE PROGRAMS

BY:

Signature of Authorized Representative Date

Name: _____

Title: _____

GRANTEE

The Grantee, City of Winchester does hereby accept and ratify all terms, conditions and agreements contained in this Grant Agreement and does hereby accept the grant and by such acceptance agrees to all of the terms and conditions hereof.

BY:

Signature of Authorized Representative Date

Name: Eden Freeman

Title: City Manager

Attachment: Grant Award (R-2015-31 : Virginia Department of Fire Programs Burn Building Grant)

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

ITEM TITLE: BAR-15-336 Simpson Appeal Appeal of BAR Decision Regarding Window Replacement for Sam Simpson at 210 S. Washington St.

PUBLIC HEARING DATE: September 22, 2015 at 6:00 PM

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

Review:

Josh Crump	Completed	09/03/2015 9:32 AM
Anthony Williams	Completed	09/03/2015 1:10 PM
Eden Freeman	Completed	09/03/2015 3:14 PM

Josh Crump

Josh Crump, Planner

9/3/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager

9/3/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: September 8, 2015
Re: BAR-15-336 Simpson Appeal Appeal of BAR Decision Regarding Window Replacement for Sam Simpson at 210 S. Washington St.

THE ISSUE:

An appeal of a BAR decision pertaining to window replacement at 210 S. Washington Street. City Council must hold a public hearing within 60 days of the date of appeal filed on July 17, 2015.

RELATIONSHIP TO STRATEGIC PLAN:

Vision: To be a beautiful, vibrant city with a historic downtown, growing economy, great neighborhoods with a range of housing options and easy movement.

Goal #2: Promote and accelerate revitalization of catalyst and other areas throughout the city.

BACKGROUND:

During a city inspection after a citizen complaint, replacement of windows with new vinyl windows, as well as other exterior changes, was observed at 210 S. Washington Street. Much of the exterior work was already completed and many of the original wooden windows were already replaced with vinyl windows after an extensive renovation project undertaken by the owner, Sam Simpson.

Mr. Simpson was cited by the City's Zoning and Inspections department for not having a certificate of appropriateness (COA) from the BAR for the exterior work and applied for a COA for this work on May 22nd. The first BAR case for this property (BAR-15-310) was heard on June 4, 2015 (see attached minutes of the June 4, 2015 meeting). The Board split the COA for the property into two motions; the first motion approved the exterior changes for the roof materials and door and shutter colors. The second motion denied the replacement vinyl windows due to being an "inappropriate use in the Historic District". During the meeting, it was brought up by Chairman Rockwood of the Board if "replacing the front windows [with wooden windows] would keep the spirit of the District." A decision letter was sent on June 5, 2015 (see attached letter dated June 5, 2015) by Planner I Josh Crump, describing the Board's decision and three options to mitigate the window issue which included; replacing all vinyl windows with wooden windows; replacing the five front vinyl windows with wooden windows; or appealing the BAR's decision to City Council. Mr. Simpson opted for the second option and applied for a COA to replace the five front windows with wooden windows on June 8, 2015.

The BAR heard this matter (BAR-15-336) at its June 18, 2015 meeting (see attached minutes of the June 18, 2015 meeting). At the BAR meeting, Mr. Simpson proposed to remove the five front vinyl windows and replace them with wood windows. He explained it would be a financial hardship to replace all the windows in the house at the same time. The Board indicated they would like to see wood windows on the three sides of the house that are visible and consider the rear of the house a separate issue. The Board suggested a staggered replacement schedule where the front façade windows would be replaced first and then give a lengthy period

of time to replace the remainder windows on the sides. The Board's decision in BAR-15-336 approved a COA to replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application with simulated divided lights: The windows in the front of the house to be replaced within one year and the windows on the side of the house to be replaced within two years. The rear would be left with vinyl windows since it is not visible from public view and one vinyl window on the side since it was originally vinyl when Mr. Simpson purchased the house.

On July 17, 2015, Mr. Simpson submitted an appeal of the BAR's decision from the June 18th meeting (see attached letters). In a follow up letter, Mr. Simpson clarified his appeal stating that he is appealing the provision in the BAR's decision to replace the side windows with wooden windows and utilizing the vinyl windows that replaced the original windows without a COA. The letter also states Mr. Simpson is willing to replace the windows on the front of the house with wooden windows.

The appeal of the BAR decision and required fee were submitted in accordance with Section 14-9-1 of the Winchester Zoning Ordinance. The Clerk has sixty (60) days to schedule a public hearing with City Council from the date of the appeal. The Zoning Ordinance states that during this review of the appeal, "[t]he same standards shall be applied by Council as are established for the Board of Architectural Review. The Council may affirm, reverse or modify the decision of the Board, in whole or in part."

Chapter 3, page 5 of the Winchester Historic District Design Guidelines, discusses windows as part of Residential Rehabilitation. Portions of the guidelines read: "1. Retain existing windows if possible." "2. Repair existing windows..." "4. Replace existing windows only when they are missing or beyond repair." "5. Do not use materials or finishes that radically change the sash, depth of reveal, muntin configuration, the reflective quality of color of the glazing, or the appearance of the frame." "

While the Board gave Mr. Simpson a lengthy period of time to replace the windows on the house due to the financial circumstances involved, the key part of this case is whether the public views from the side of the house portray the same significance as the public view from the front of the house within the Historic District. Section 14-2-1 of the Zoning Ordinances defines 'Exterior Architectural Appearance' to include "*architectural character; general arrangement of the exterior of a structure; general composition, including the kind, color, and texture of building material; and **type and character of all windows, doors, light fixtures, signs, and appurtenant elements, subject to public view from a public street, public way, or other public places.***"

Attached are Google Street View images taken approximately in July 2014 of 210 S. Washington Street simulating driving or walking past the house. These images show the original window before the replacement windows were installed in early 2015. From the street it is hard to distinguish the material from the window. Further, during the spring and summer months when foliage is still on surrounding landscaping, views to the side of the house from the public view shed are reduced.

BUDGET IMPACT:

None

OPTIONS:

1. Uphold the decision of the Board of Architectural Review to approve the request, in full based upon a finding that the applicant undertook the work without BAR approval and that the Board properly applied the standards for window replacement and gave the

- applicant reasonable amount of time to complete the work;
2. Modify the decision of the Board of Architectural Review to allow the replacement of wooden windows with vinyl for only the sides of the house; or,
 3. Partial Reversal of the decision of the Board of Architectural Review, in full based upon a finding that the BAR erred in applying the standards established for the BAR.

RECOMMENDATIONS:

Staff recommends that Council consider Option # 1 or 2

Alexandria Boards of Architectural Review Window Policy

Adopted 10/20/2010 (OHAD) & 10/27/2010 (PG)
Amended 12/04/2013 (OHAD) & 11/20/2013 (PG)

A. General

1. Direct replacement of any window requires an administrative finding of appropriateness from the Board of Architectural Review (BAR) staff, under sec. 10-109 and 10-209 of the Alexandria Zoning Ordinance. A building permit from Code Administration is also required per a City Code amendment, effective June 1, 2010.
2. BAR staff may administratively approve the direct replacement of windows in the existing openings which comply with all of the policies stated in section B, below, and with the Alexandria Replacement Window Performance Specifications listed in section C, below. Prior to any approval, qualified BAR staff must first field survey and confirm the existing window's age, architectural style and condition.
3. Where staff makes a written finding that a window is not visible from a public right-of-way, the window is not regulated by the BAR and may be replaced with any suitable window allowed by the Virginia Construction Code. However, whether visible or not, a building permit is required from Code Administration to replace a window in the historic districts.
4. Proposed replacement windows not in compliance with the Board's adopted policies, or not architecturally compatible or historically appropriate in the opinion of staff, require review and approval of a Certificate of Appropriateness by the BAR at a public hearing. The BAR will evaluate such cases on the merits of that particular building and the window product proposed. Refer to the chapter on Windows in the BAR's *Design Guidelines* and the Parker-Gray Residential Reference Guide for additional information.
5. Any appropriate and compatible modern window permitted by this Window Policy or approved by the Board as part of the overall building's Certificate of Appropriateness approval may be used on new buildings and additions.
6. Vinyl or vinyl clad windows, and windows with removable muntins ("grilles") or muntins sandwiched between the glass, are not considered appropriate or compatible in any location in the Old and Historic Alexandria District and are only considered appropriate on Later (post 1931) buildings in very limited circumstances in the Parker-Gray District.
7. The use of storm windows is strongly encouraged to protect historic windows and to conserve energy. According to the BAR's adopted *Design Guidelines*, storm windows are not regulated by the BAR and do not require a building permit but they should be installed so as not to damage historic material and to be visually minimally obtrusive. Energy panels may be used on single glazed replacement window sash.
8. These policies may be amended by the Boards as new materials become available but will be reviewed by the Board and updated at least every five years.

B. Staff Administrative Approval of Replacement Windows

Staff may administratively approve direct replacement of windows if the proposed windows comply with the Alexandria Replacement Window Performance Specifications (p.2) and all of the policies stated below:

1. Original Windows

All original or previously replaced windows with either wood-pegged mortise and tenon sash joinery or with cylinder ("wavy") glass must be repaired and retained. This generally applies to all 18th or 19th century buildings but the use of cylinder glass can extend to 1930. Where staff confirms in the field that these elements are too deteriorated to repair, they may be replicated to match exactly on a case by case basis. Original window frames and trim from the 18th and 19th centuries must also be preserved and repaired or replicated.

2. Previously Replaced Windows

Previously replaced windows which contain modern frames, sash and smooth (sheet, plate or float) glass may be replaced with one of the following in the historically appropriate style:

- a. 18th and 19th century buildings with multi-light sash must use single glazed painted wood windows on the street facades. Energy panels may be used on single glazed replacement sash. Secondary elevations of these buildings may use painted wood simulated divided light insulated glass windows.
- b. 1-over-1, or 2-over-2 sash windows with modern float glass in modern sash may be replaced with double glazed painted wood windows on any façade.
- c. Buildings whose sash was previously replaced but which retain their historic frames must use appropriate sash replacement kits that preserve the existing frames.

3. Double Glazing

Double glazed (insulated) and simulated divided light painted wood windows may be used throughout on buildings or additions constructed after 1930, when Thermopane brand insulated glass windows were invented.

4. Aluminum Clad Wood, Wood Composite, and Fiberglass

High quality, appropriately detailed aluminum clad wood, wood composite, or fiberglass replacement windows may be used in both historic districts on buildings constructed after 1965, when these windows became commercially available. For buildings located in the Parker-Gray District, use the *Parker-Gray Residential Reference Guide* to determine additional applicable locations. These windows may also be used on any 20th century commercial building more than four stories in height and on multifamily projects with more than four dwelling units. Aluminum clad wood or fiberglass windows may generally replace steel sash windows on any building when using the same light configuration, color and operation, except where staff believes an architecturally significant building has existing intact and restorable steel sash.

C. Alexandria Replacement Window Performance Specifications

Windows may be provided by any manufacturer but their construction materials and form must comply with the specifications below in order to be approved administratively by BAR staff:

1. Wood replacement windows must be full frame or sash replacement kits in the existing frame rather than insert or pocket replacements. Fiberglass insert windows must have tight tolerances with minimal jamb widths and overlay panning;
2. The dimensions and proportions of the window rails, stiles, muntins, frame, sill and exterior trim must match historically appropriate window proportions;
3. Multi-light insulated glass windows must have permanently fixed muntins on both the interior and exterior, with spacer bars between the glass that are a non-reflective, medium value color;
4. Muntins must be paintable and have a putty glaze profile on the exterior;
5. All glazing must be clear, non-reflective and without tint. Low-E (low emissivity) glazing is encouraged for energy conservation but the glass must have a minimum 72% visible light transmission (VLT) with a through-the-glass shading coefficient between 0.87 – 1.0, and a reflectance of less than 10%. Low-E 272 generally meets these criteria;
6. The vinyl weatherstrip portion of the wood window jambs should be minimally visible;
7. Insect screen frames must match the color of the window frame and the screen mesh must be a neutral color with sufficient light transmittance that the window sash remains visible behind; and,
8. The applicant must submit complete window manufacturer specification sheets and a contractor order form to BAR staff with the building permit application to confirm compliance with these specifications.

After the August 25, 2015 Council work session, staff reached out to other localities in Virginia for advice on how their Architecture Review Boards handles the issue of window replacements within their local historic districts. Staff contacted representatives in Alexandria, Fredericksburg, Staunton, and Williamsburg.

In Alexandria, the city BAR issued a "Window Policy" (see attached document), that helps guide decisions of the BAR and staff on replacement windows. The BAR generally finds vinyl or vinyl clad windows are not considered appropriate in their two historic districts. In the "newer" historic district known as the "Parker-Gray Historic District", vinyl windows (composite or vinyl finishes that are added onto wood wooden) are considered appropriate on later (post 1931) buildings in very limited circumstances. There has only been one appeal of the BAR to City Council in Alexandria within the last five years. The decision was to uphold the decision of the BAR consistent with the adopted Window Policy. An interesting sidebar to Alexandria's review policies is that they do not review storm windows. The thought is that, by allowing unregulated storm windows, there would be more argument to keep the original wooden windows preserved behind them. Unlike Winchester, Alexandria does require a building permit for window replacement and that helps to catch illegal window replacements.

In Fredericksburg, the city ARB has received requests for window replacement, but generally holds firm to the Department of the Interior federal guidelines. Current Planning Director Charles Johnston does not recall any appeals of window replacement denials by the local board being appealed to City Council. Like Alexandria, Fredericksburg requires a building permit for window replacement.

In Staunton, there are 5 National Historic districts that are fully encompassed into the local historic district where the local board takes a firm position on not allowing replacement of wooden windows with vinyl on any elevations visible from public property. Long-serving Planning Director Sharon Angle does not recall a single appeal of vinyl window replacement denials to City Council in the past 20 years. Staunton has a presentation that one of their preservation planners prepared that documents how investing in repairing existing wooden windows pays off since newer replacement windows (both wood and vinyl) are not constructed as well as require more frequent replacement. As a sidebar, Ms. Angle noted that she was surprised to hear that Winchester was entertaining relaxed standards since Winchester served as the model for establishing the historic district in Staunton and offered training to the Staunton BAR members back when they were first established.

In Williamsburg, the City has extensive historic districts separate from the area controlled by the Colonial Williamsburg foundation. Deputy Planning Director Carolyn Murphy, who staffs the local ARB, noted that their Board is even reluctant to allow replacement of wooden windows with new wooden windows and has never accepted vinyl replacement windows. As part of their review of replacement wooden windows, they have a preservation planner or architect go out to the site and examine the requested windows to determine whether a wooden replacement is needed or whether repair should be undertaken instead. They have had a few appeals of BAR decisions to City Council, all of which have been upheld. Ms. Murphy noted that the material of the window is considered a very important part of the fabric of the historic district that must be preserved in addition to other aspects of the windows such as window dimensions, profile, muntin integrity, color, and glazing.



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

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

June 25, 2015

Samuel Simpson
210 S. Washington Street
Winchester, VA 22601

Dear Mr. Simpson:

On Thursday, June 18, 2015, the Board of Architectural Review acted on the following request:

BAR-15-336 Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

On a vote of 5-0, the Board approved **BAR-15-336** with the following comments:

- Replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application;
- the one vinyl window on the side of the house to be left as is;
- the windows on the back of the house to be replaced with vinyl windows with simulated divided lights;
- the windows in the front of the house to be replaced within one year;
- the windows on the side of the house to be replaced within two years.

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely yours,

Joshua Crump
Planner I

7/17/15
I would like to appeal this decision

Samuel E. Simpson

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

I would like to appeal the B.A.R.'s decision to replace the newly installed vinyl windows with wood in the front and both sides. I would like only to replace the front of home with wood and leave the sides vinyl. I do not think the sides ~~of the~~ being vinyl take away from the historic value or look of home.

Thank you.

Samuel E. Simpson
210 S. Washington St.
Winchester, VA

Applicant was not present.

*Mr. Walker made a motion to table **BAR-15-304** until the next meeting. Ms. Jackson seconded the motion. Voice vote was taken and the motion passed 7-0.*

BAR-15-308 Request of Jonathan Sladek for a Certificate of Appropriateness for an accessory building at 436 Lafayette Place.

Mr. Sladek explained that his shop on North Cameron Street had closed and he needed a place to store his tools. He used all reclaimed wood siding and windows to build his shed. Vice Chairman Bandyke said the only issue he had was with the asphalt shingles. Mr. Sladek said he matched them with what was on his house. He scaled down the shed to have the same dimensions as his house. Vice Chairman Bandyke said it was considered a new structure even though it was constructed to look like an old structure. He outlined the rules for roofing materials in the Historic District. Mr. Sladek said he would have done a metal roof if his house had a metal roof. He had to put the shingles up in order to protect his tools inside the shed.

Board members asked questions about the foundation and the materials to be used around the outside of it. Mr. Sladek asked about fencing around his property. He has had several intruders and would like to protect his property better. Chairman Rockwood said the Board could work with him on fencing if it is visible from the public right-of-way. The Zoning office could provide guidelines for construction of one.

The Board members asked questions about visibility of the building from the public right-of-way. Vice Chairman Bandyke asked Ms. Schroth, since she had seen the building, how prominent the roof of the shed is from the right-of-way. She stated that if you are coming down the street from either direction, it is not visible until you are right in front of it. The trees surrounding it are pine so it is not visible during the winter. Chairman Rockwood said if they required a metal roof, it would not have any relation to other structures around it.

*Mr. Serafin made a motion to approve a Certificate of Appropriateness for **BAR-15-308** using half round gutters and having paint colors approved through the Zoning Department. The foundation is to be parged or covered with stone. Shingles are approved as submitted. Vice Chairman Bandyke seconded the motion. Voice vote was taken and the motion passed 7-0.*

BAR-15-310 Request of Sam Simpson for a Certificate of Appropriateness to change the windows, roof and exterior paint at 210 South Washington Street.

Mr. Simpson stated that he was unaware his house was in the historic district until he found a notice on his door. He said he had tried to stay within the period the house was built. There were already some vinyl windows in the home when he had bought it. Some of them were nailed shut. One had a cut out for an air conditioner. He was unaware it was inappropriate to use vinyl windows.

The Board members asked questions about the location of the windows and which had been replaced. Mr. Simpson said he had replaced all but one window. He tried to keep the same look of the home. Vice Chairman Bandyke asked how long Mr. Simpson had owned the home. Mr. Simpson said he bought the home in November 2014 and started the project January 1, 2015. Vice Chairman Bandyke asked if there was any indication when he bought the house that it was in the Historic District. Mr. Simpson said none of the paperwork he received said anything about it. His neighbors had complimented him on bringing the house back to life but they never said anything to him. He did not know until he found the

red notice on his door. He received the postcard from the City eight days before he was given the notice.

Chairman Rockwood said this situation has happened before with other properties. People do renovations without actual knowledge of the policies of the Board. The Board has drawn a firm line on it. Mr. Crump said the guidelines discourage the use of vinyl but they are just guidelines and are there for their accommodation. Vice Chairman Bandyke said he wanted to go on record that vinyl windows are unacceptable in the Historic District. They have never approved vinyl windows. If they disapprove them and City Council makes a decision to reverse it that is their decision. The Board does not accept PVC, composite or vinyl windows. They are efficient, long-lasting products but they are not included in the Historic District. If these windows are approved, it will start a precedent. Mr. Simpson said he kept the same look as the original windows. Chairman Rockwood said he agreed and from the street, it was hard to distinguish. The problem is not all houses are situated like his and it is a recurring problem that comes before the Board. He wondered if replacing the front windows would keep the spirit of the District.

Mr. Simpson said he had put a lot of work into a home that needed it and thought he had done a great job. He apologized for not following procedure and wanted to straighten it out and try to comply with what the Board wanted.

Mr. Serafin said the windows that could be seen from the street should be replaced. If he had brought the project to them beforehand, they would have rejected the vinyl windows. Mr. Simpson asked how home owners are made aware their home is in the Historic District. He has not had anything since the postcard. Chairman Rockwood said if you were going to buy a property anywhere, one of the things that should be looked at is the zoning and where the property lies. A question that should be asked is what are the zoning requirements on a parcel. Mr. Simpson said in the past he has not needed permits for a roof, paint colors or windows until he found out he was in the Historic District. He said Mr. Crump had given him the literature for the District and he is now aware. However, he will be losing money with having to replace the windows. Chairman Rockwood said if he had brought this project before them before starting work, they would have told him what type of windows to use and given him guidance. The Board agreed he had done a nice job on the house. Mr. Simpson said he had grown up in Winchester but had not lived here in 15 years. He thought he was doing the right thing in fixing up the home. He does not live in the house right now due to personal circumstances. Vice Chairman Bandyke asked questions about the roofing, front door and paint colors. The Board decided to make separate motions for the windows and remaining items.

*Vice Chairman Bandyke made two separate motions for **BAR-15-310**.*

*Motion #1- To approve a Certificate of Appropriateness for **BAR-15-310** for the following:*

- *Roofing materials and paint colors as submitted.*

Ms. Jackson seconded the motion. Voice vote was taken and the motion passed 6-0. Ms. Schroth abstained.

*Motion #2-The Board denied a Certificate of Appropriateness for **BAR-15-310** for the following:*

- *The vinyl windows are inappropriate for use in the Historic District.*

Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 6-0. Ms. Schroth abstained.



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

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Website: www.winchesterva.gov

June 5, 2015

Sam Simpson
439 Historic Packhorse Trail
Hedgesville, WV 25427

Dear Mr. Simpson:

On Thursday, June 4, 2015, the Board of Architectural Review acted on the following request:

BAR-15-310 Request to change the windows, roof and exterior paint at 210 South Washington Street. The board split the Certificate of Appropriateness into two motions:

Motion #1- On a vote of 6-0, the Board approved a Certificate of Appropriateness for **BAR-15-310** for the following:

- Roofing materials & colors for the door and shutters as submitted.

Motion #2- On a vote of 6-0, the Board denied a Certificate of Appropriateness for **BAR-15-310** for the following:

- The vinyl windows are inappropriate for use in the Historic District.

City staff would encourage you to review the Winchester Historic District Design Guidelines, specifically Chapter 3, titled "Residential Rehabilitation" regarding windows. It is highly suggested that replacing the installed vinyl windows with materials, such as wood, is more appropriate to the Historic District guidelines. To mitigate the window issue, there are three options we are advising.

Option A: Resubmit a Certificate of Appropriateness application for the Board of Architectural Review replacing all vinyl windows with wooden windows.

Option B: Resubmit a Certificate of Appropriateness application for the Board of Architectural Review replacing the five front vinyl windows facing South Washington Street with wooden windows.

Option C: Appeal the BAR decision to Winchester City Council. As per section 14-9-1.1 of the Winchester Zoning Ordinance (copy enclosed), the decision of the Board may be appealed in a notice in writing (along with a \$75.00 fee) to the Common Council of the City of Winchester within 30 days of the Board's decision (due by July 6, 2015).

Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely,

Joshua Crump
Planner I

"To provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners."

BOARD OF ARCHITECTURAL REVIEW MINUTES

The Board of Architectural Review held its regularly scheduled meeting on Thursday, June 18, 2015, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Rockwood, Mr. Serafin, Mr. Walker, Ms. Jackson, Ms. Elgin, Ms. Schroth

ABSENT: Vice Chairman Bandyke

STAFF: Josh Crump, Aaron Grisdale, Carolyn Barrett

VISITORS: Sam Simpson, Samuel Leinbach, Alexander Kilimnik

APPROVAL OF MINUTES:

Chairman Rockwood called for corrections or additions to the minutes of June 4, 2015. Hearing none, Chairman Rockwood called for a motion. Ms. Jackson moved to approve the minutes as submitted. Mr. Walker seconded the motion. Voice vote was taken and the motion passed 6-0.

CONSENT AGENDA:

None

NEW BUSINESS:

BAR-15-327 Request of Samuel P. Leinbach Jr. for a Certificate of Appropriateness to replace and add new storm windows at 317 Fairmont Avenue.

Mr. Leinbach presented his project and gave information about the windows he would like to use. The board members asked questions about the window details. Mr. Leinbach said he was going to replace six windows in the sleeping porch upstairs to start with.

*Mr. Walker made a motion to grant a Certificate of Appropriateness to **BAR-15-327** as submitted for the new storm windows and flush mount installation style. Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 6-0.*

BAR-15-336 Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

Mr. Simpson proposed to remove the front vinyl windows and replace them with wood windows. He explained it would be a financial hardship to replace all the windows in the house at the same time. Each window is a different size and custom made for the opening it is in. He would have to remove and reframe the openings for standard sized windows. Mr. Serafin said custom-made wood windows are available. Mr. Simpson said he was having a hard time finding them and the board members named several businesses that carried them.

Mr. Walker said the Board was in a tough position because the windows had already been replaced with vinyl. If they granted a Certificate of Appropriateness, it would set a dangerous precedent for that kind of action to continue. There are guidelines they have to adhere to. He would like to see wood windows on the three sides of the house that are visible and consider the back of the house a separate issue.

Mr. Simpson said he had exhausted all funds making renovations to the house and was in danger of losing it. Had he known the house was in the Historic District, he would not have used vinyl windows. Mr. Serafin said the monetary aspects of a case cannot bear on their decision. They would have to verify financial hardship on every case. Chairman Rockwood suggested the front façade be changed and then give a lengthy period of time to replace the remainder. Mr. Simpson asked what would happen if he had to sell the home. Chairman Rockwood said he could appeal to the City Council. Staff can advise what steps he would need to take to do so. After further discussion by the Board, Chairman Rockwood called for a motion.

*Mr. Serafin made a motion to grant a Certificate of Appropriateness to **BAR-15-336** to replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application with simulated divided lights. The one vinyl window on the side of the house to be left as is. The windows on the back of the house to be replaced with vinyl windows. The windows in the front of the house to be replaced within one year. The windows on the side of the house to be replaced within two years. Mr. Walker seconded the motion. Voice vote was taken and the motioned passed 5-0. Ms. Schroth abstained.*

BAR-15-334 Request of Alexander Kilimnik for a Certificate of Appropriateness for the addition/repair of a deck at 107 East Cecil Street.

Mr. Kilimnik spoke about the project and his intentions for the home. He started work in October 2014. He was not aware of the Historic District requirements when he replaced the windows. Mr. Grisdale gave a description and timeframe of the repairs and zoning violations that have occurred on the property since May 2015.

Mr. Kilimnik said he had assumed only houses that had historic plaques needed prior approval for work and his neighbors had the same assumptions. He talked about measures he had taken to protect the house while the stop work order is in effect. He spoke about the condition of the house when he purchased it. Chairman Rockwood asked how many doors and windows had been replaced. Mr. Kilimnik said eight windows and three doors and described their condition before replacement.

Mr. Kilimnik explained his reasons for purchasing the vinyl windows. He had observed similar windows in other parts of the Historic District. Chairman Rockwood pointed out that what was seen on the street may have been done before the BAR existed or could have been a like-for-like replacement. He explained the guidelines concerning integrity of materials and gave examples.

*Mr. Serafin made a motion to table **BAR-15-334** until the application is revised and resubmitted. Ms. Jackson seconded the motion. Voice vote was taken and the motioned passed 5-0.*

Ms. Schroth departed the meeting at 5:05pm.

OLD BUSINESS:

BAR-15-196 Request of 309 BRAD LLC for new construction at 309 North Braddock Street.



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June 25, 2015

Samuel Simpson
210 S. Washington Street
Winchester, VA 22601

Dear Mr. Simpson:

On Thursday, June 18, 2015, the Board of Architectural Review acted on the following request:

BAR-15-336 Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

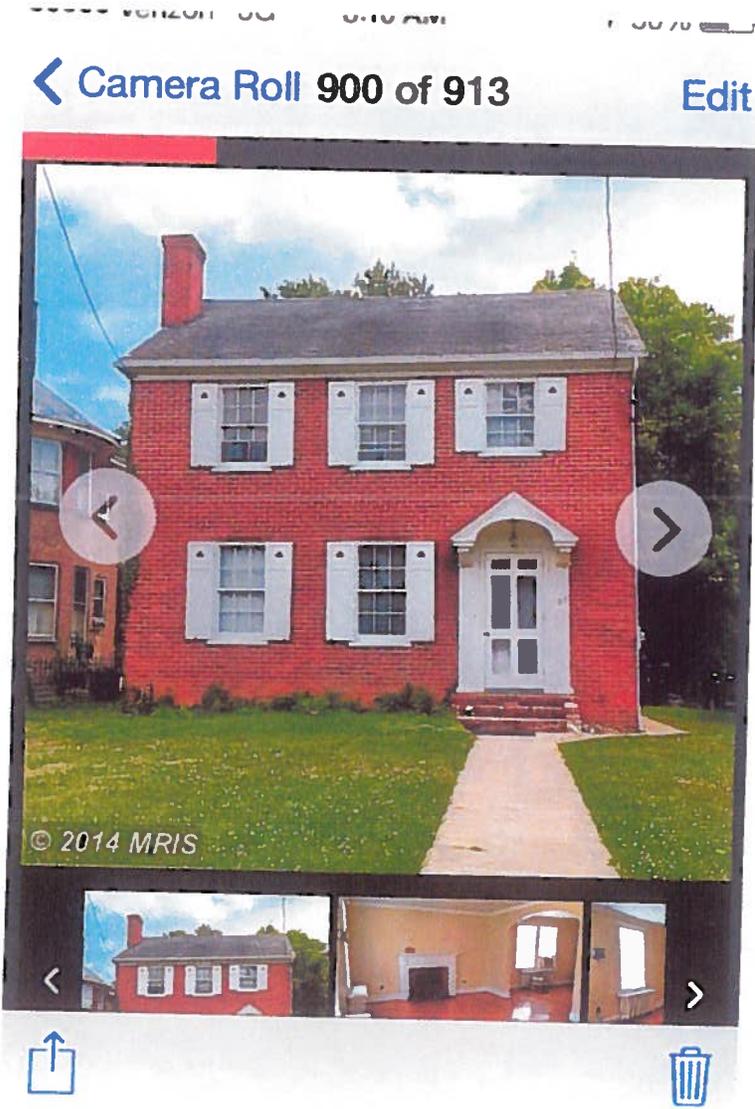
On a vote of 5-0, the Board approved **BAR-15-336** with the following comments:

- Replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application;
- the one vinyl window on the side of the house to be left as is;
- the windows on the back of the house to be replaced with vinyl windows with simulated divided lights;
- the windows in the front of the house to be replaced within one year;
- the windows on the side of the house to be replaced within two years.

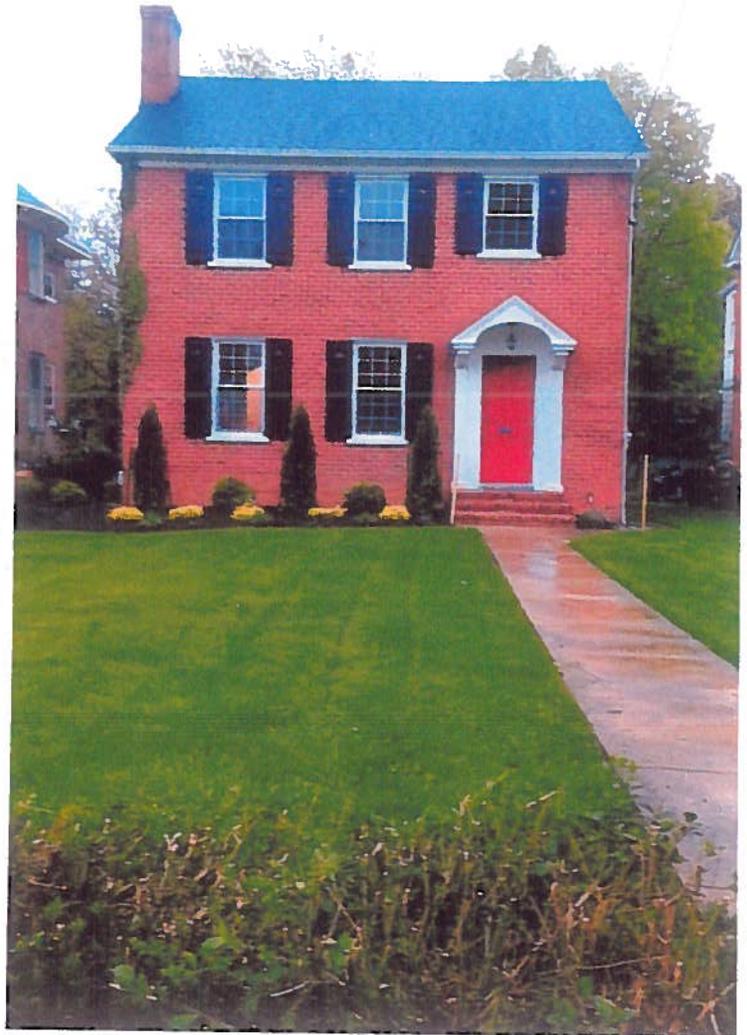
The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely yours,

Joshua Crump
Planner I



Before



After





