



CITY COUNCIL AGENDA
Monday, September 19, 2016

6:00 p.m.

Closed session as provided by Section 2.2-3712 of the Virginia Code

Second Floor Conference Room (Consultation with Legal Counsel re: land use advice; Parks Land Acquisition)

7:00 p.m.

Regular Meeting - CALL TO ORDER

Council Chambers

PLEDGE OF ALLEGIANCE
ROLL CALL

AWARDS/RECOGNITIONS
ANNOUNCEMENTS

APPOINTMENTS TO BOARDS & COMMISSIONS
CITY MANAGER RESPONSE TO MATTERS BY THE PUBLIC

MATTERS BY THE PUBLIC

Public comment provided for up to 12 speakers publicized at noon the day of the meeting (limit 3 minutes per speaker) and for an unlimited number of speakers at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

1. CONSENT AGENDA*

(Items removed from consent agenda will be considered at the end of the regular agenda.)

a. Minutes for September 6

b. APPROPRIATION:

Local Contributions for Crisis Intervention Training – \$71,200 (2nd of 2 readings)

c. APPROPRIATION:

Grant Funding for West Main Street National Register Nomination – \$24,000 (2nd of 2 readings)

d. APPROPRIATION:

Virginia Homelessness Solutions Grant – \$477,151; Housing Opportunities for Persons with AIDS – \$186,940 (2nd of 2 readings)

e. APPROPRIATION:

Fiscal Year 2017 Fire Programs Aid to Locality Funding – \$141,082 (1st of 2 readings)

f. APPROPRIATION:

\$10,000 Returned from Charlottesville Affordable Housing Fund Award to Albemarle Housing Improvement Program and Habitat for Humanity (1st of 2 readings)

g. RESOLUTION:

Grant Agreement – Piedmont Housing / Orangedale Neighborhood (1st of 1 reading)

h. ORDINANCE:

Telecommunications Ordinance Amendments (2nd of 2 readings)

i. ORDINANCE:

Conditional Release of Road Widening, Drainage, and Public Access Easements to

Accommodate Retail Development at 1200 Emmet St. (2nd of 2 readings)

j. APPROPRIATION:

Additional Funding for Social Services Programs - \$94,133.85 (1st of 2 readings)

2. PUBLIC HEARING / REPORT*

Deer Management Strategies – **20 mins**

3. PUBLIC HEARING / RESOLUTION*

Virginia Discovery Museum Lease (1st of 1 reading) – **10 mins**

4. PUBLIC HEARING / RESOLUTION*

Setting Priorities for Community Development Block Grant (CDBG) and HOME Investment Partnership Funds for Program Year 16/17 (1st of 1 reading) – **15 mins**

5. PUBLIC HEARING / RESOLUTION*

Matters by the Public Procedures (1st of 1 reading) – **20 mins**

6. RESOLUTION*

Amendment to Virginia Resources Authority (VRA) Financing Agreement (1st of 1 reading) – **10 mins**

7. RESOLUTION*

Open Data Policy Proposal (1st of 1 reading) – **20 mins**

8. REPORT

Blue Ribbon Commission on Race, Memorials and Public Spaces: Interim Report – **15 mins**

9. REPORT

TJPDC Legislative Discussion – **10 mins**

OTHER BUSINESS
MATTERS BY THE PUBLIC

*ACTION NEEDED

GUIDELINES FOR PUBLIC COMMENT

**We welcome public comment;
it is an important part of our meeting.**

Time is reserved near the beginning and at the end of each regular City Council meeting for Matters by the Public.

Please follow these guidelines for public comment:

- If you are here to speak for a **Public Hearing**, please wait to speak on the matter until the report for that item has been presented and the Public Hearing has been opened.
- Each speaker has **3 minutes** to speak. Please give your name and address before beginning your remarks.
- Please **do not interrupt speakers**, whether or not you agree with them.
- Please **refrain from using obscenities**.
- If you cannot follow these guidelines, you will be escorted from City Council Chambers and not permitted to reenter.

**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA**



| | |
|------------------|---|
| Agenda Date: | September 6, 2016 |
| Action Required: | Approval and Appropriation |
| Presenter: | Lieutenant David W. Shifflett, Jr., Police Department |
| Staff Contacts: | Lieutenant David W. Shifflett, Jr., Police Department Thomas Von Hemert, Jefferson Area C.I.T. Coordinator |
| Title: | Local Contributions for Crisis Intervention Training - \$71,200 |

Background:

The City of Charlottesville Police Department has received contributions through Region Ten from the Virginia Department of Behavioral Health and Development Services in the amount of \$53,700 and funds from local agencies to support Crisis Intervention Training (C.I.T.) in the amount of \$17,500. These funds will assist in providing for the salary of the C.I.T. Coordinator and the program's operational cost; as well as provide ongoing training, along with mentoring, technical assistance, and consultation, to C.I.T. programs and will be provided in the following manner per fiscal year:

| | |
|---|----------|
| Albemarle County Police Department | \$2,500 |
| City of Charlottesville Police Department | \$2,500 |
| University of Virginia Police Department | \$2,500 |
| Albemarle/Charlottesville Regional Jail | \$2,500 |
| Region Ten | \$2,500 |
| Central Virginia Regional Jail | \$2,500 |
| Charlottesville Area Community Foundation | \$2,500 |
| Virginia Department of Behavioral Health and Development Services | \$53,700 |
| <hr/> Total contributions | \$71,200 |

Additional income may be received from outside jurisdiction agencies who attend training in the Thomas Jefferson Training Area. These are reimbursed through The Department of Criminal Justice Services, at \$500 per person and received on a case by case basis as the training occurs.

Discussion:

The Thomas Jefferson Area Crisis Intervention Program provides regular training courses for Law Enforcement and other agencies, both local and from throughout the state. These week long training sessions for Police Officers, along with other training sessions for security guards, dispatchers, and others are provided regularly over the course of each year led by C.I.T. Coordinator, Thomas von Hemert. This training serves to keep agencies equipped with C.I.T. trained officers in order to better service those in mental crisis. Funding for this training is provided from multiple agencies on a previously agreed upon cost.

Alignment with Council Vision Areas and Strategic Plan:

Appropriation of this item aligns with Council’s visions by providing funding to aid the Thomas Jefferson Crisis Intervention Team Program and the Charlottesville Police Department in delivering optimal C.I.T. services to our City as a Smart, Citizen-Focused Government. It supports our Mission of **providing services that promote exceptional quality of life for all in our community** by providing important quality services to those in need of mental health assistance and safety.

This appropriation also supports **Goal 2** of the Strategic Plan: **Be a safe, equitable, thriving and beautiful community**. The C.I.T. program provides education and training to members of the Community who have frequent interaction with those in need of mental health assistance. These people include but are not limited to, police officers, dispatchers, corrections officers, and fire department personnel. C.I.T. encourages safer and more effective interaction between care providers and those in need, making those interactions and the community more equitable and safer for all. The Jefferson Area C.I.T. program also embraces **Goal 5: Foster Strong Connections** by involving all aspects of the mental health processes and making them more efficient and safer. C.I.T. facilitates and fosters relationships between Region 10, mental health providers, law enforcement, local hospitals, jails, and many others to ensure that those in need of mental health services can obtain them as safely and efficiently as possible. Outcomes for C.I.T. programs can be reported through the number of people who received services related to the program.

Community Engagement:

N/A

Budgetary Impact:

This has no impact on the General Fund. The funds will be expensed and reimbursed to a grants fund and used to operate the program through the Thomas Jefferson Area Crisis Intervention Team.

Recommendation:

Staff recommends approval and appropriation of funds.

Alternatives:

The alternative is to not approve this project to the detriment of increasing much needed mental health programs.

Attachments:

Appropriation

APPROPRIATION

\$71,200

Local Agency Contribution for Crisis Intervention Training

WHEREAS, the City of Charlottesville, through the Thomas Jefferson Crisis Intervention Team and the Charlottesville Police Department, receives from local agencies \$71,200 per fiscal year;

WHEREAS, the City of Charlottesville, through the Thomas Jefferson Crisis Intervention Team and the Charlottesville Police Department, receives from other local agencies, funding to support Crisis Intervention Training programs;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the lump sum of \$71,200, received from local Agencies is hereby appropriated in the following manner:

Revenues: \$71,200

\$71,200 Fund: 209 Cost Center: 3101003000 G/L Account: 434410

Expenditures: \$71,200

\$71,200 Fund: 209 Cost Center: 3101003000 G/L Account: 519999

BE IT FURTHER RESOLVED, by the Council of the City of Charlottesville, Virginia, that this appropriation is conditioned upon the receipt of funding by the participating agencies listed above, and will be hereby considered as a continuing appropriation and funds received for this purpose will be immediately available to spend for the C.I.T. program.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



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| Agenda Date: | September 6, 2016 |
| Action Required: | Appropriation of Funds |
| Presenter: | Mary Joy Scala, Preservation & Design Planner, Department of Neighborhood Development Services (N.D.S.) |
| Staff Contacts: | Mary Joy Scala, Preservation & Design Planner, N.D.S. Alex Ikefuna, Director, N.D.S. |
| Title: | Virginia Department of Historic Resources (D.H.R.) 2016-2017 Certified Local Government (C.L.G.) grant funding for West Main Street National Register nomination - \$24,000 |

Background:

The City of Charlottesville through the Department of Neighborhood Development Services has been awarded \$9,000 from the Virginia Department of Historic Resources' 2016-2017 Certified Local Government Subgrant program to have completed a National Register nomination report for a historic district located in the area of West Main Street between Ridge-McIntire Road on the east and Drewary Brown Bridge on the west. There is a local match requirement, which will be met by a \$15,000 match.

Discussion:

This funding will provide a nomination report for a West Main Street National Register district, including a comprehensive, reconnaissance-level survey of approximately 50 buildings, many associated with Charlottesville's diverse ethnic and cultural history; and it will provide a Preliminary Information Form (P.I.F.) based on the survey results, to confirm the eligibility of West Main Street for a potential National Register district. A National register listing would provide eligibility for a rehabilitation tax credit incentive to balance preservation regulations (A.D.C. District) already in place.

Alignment with Council Vision Areas and Strategic Plan:

Appropriation of this item aligns with Council's Vision 2025 by supporting Charlottesville Arts and Culture: **Charlottesville cherishes and builds programming around the evolving research and interpretation of our historic heritage and resources.**

This appropriation also supports **Goal 2** of the Strategic Plan: **Be a safe, equitable, thriving and beautiful community**, including: **2.5. Provide natural and historic resources stewardship, 2.6. Engage in robust and context sensitive urban planning**, and **Goal 3: Have a strong diversified economy**, including: **3.4. Promote diverse cultural tourism.**

Community Engagement:

This area is not a typical neighborhood with homeowners. The proposed nomination has been discussed with individual commercial property owners, and a mailing to all property owners was sent in May. Before the survey begins, the project consultant will hold an informational meeting to explain a National Register listing.

Budgetary Impact:

The local match of \$15,000 is currently available in Neighborhood Development Services capital projects fund 426 for New Historic Surveys P-00484.

Recommendation:

Staff recommends approval and appropriation of funds.

Alternatives:

The alternative is to not approve this project, which would be contrary to Comprehensive Plan Historic Preservation Goal 3 Incentives & Tools, 3.2 *Pursue National Register and Virginia Landmarks Register status for all future local historic districts.*

Attachments:

N/A

APPROPRIATION

**Virginia Department of Historic Resources (D.H.R.)
2016-2017 Certified Local Government (C.L.G.) grant funding
for West Main Street National Register nomination
\$24,000**

WHEREAS, the City of Charlottesville, through the Department of Neighborhood Development Services, has received from the Virginia Department of Historic Resources (D.H.R.), funding to support a National Register nomination for West Main Street from Ridge-McIntire Road to Drewary Brown Bridge,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$9,000 for the fiscal year 2016-2017 received from the Virginia Department of Historic Resources (D.H.R.) is hereby appropriated in the following manner:

Revenue

| | | | |
|----------|-----------|-------------|------------------------------------|
| \$ 9,000 | Fund: 209 | IO: 1900270 | G/L: 430120 (State/Fed Pass Thru) |
| \$15,000 | Fund 209 | IO: 1900270 | G/L: 498010 (Transfer from C.I.P.) |

Expenditure

| | | | |
|-----------|-----------|-------------|--|
| \$ 24,000 | Fund: 209 | IO: 1900270 | G/L: 530670 (Other contractual services) |
|-----------|-----------|-------------|--|

Transfer

| | | | |
|----------|-----------|--------------|----------------------------------|
| \$15,000 | Fund: 426 | WBS: P-00484 | G/L: 461209 (Transfer to grants) |
|----------|-----------|--------------|----------------------------------|

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$9,000 for the fiscal year 2016-2017 from the Virginia Department of Historic Resources (D.H.R.).

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CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.



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|------------------|--|
| Agenda Date: | September 6, 2016 |
| Action Required: | Approval and Appropriation |
| Presenter: | Kaki Dimock, Director, Human Services |
| Staff Contacts: | Kaki Dimock, Director, Human Services Ryan Davidson, Senior Budget and Management Analyst |
| Title: | Virginia Homelessness Solutions Grant (V.H.S.P.) - \$477,151 Housing Opportunities for Persons with AIDS (H.O.P.W.A.) - \$186,940 |

Background:

The Department of Human Services in coordination with the Thomas Jefferson Area Coalition for the Homeless (T.J.A.C.H.) and the Service Provider Council (S.P.C.), applied for and received two grants from the Virginia Department of Housing and Community Development. The Virginia Homelessness Solutions Grant (V.H.S.P.) award is \$477,151, and the Housing Opportunities for Persons with AIDS (H.O.P.W.A.) award is \$186,940, for a total of \$664,091 in Homeless awards.

Discussion:

The City of Charlottesville has staff from Human Services and Social Services taking a leadership role in the governance of T.J.A.C.H. The Virginia Homelessness Solutions Grant (V.H.S.P.) and Housing Opportunities for Persons with AIDS (H.O.P.W.A.) Grant are important resources in our community's efforts to end homelessness. The grant provides services in seven key areas.

1. **Rapid Rehousing and HOPWA:** Thomas Jefferson Health District is the recipient of V.H.S.P. funds for Housing Opportunities for Persons with AIDS (H.O.P.W.A.) funds for rental subsidies. The Haven is the recipient of the VHSP funds for Rapid Re-Housing. Supportive Services will be provided to all recipients of financial subsidies for up to 24 months. A small portion of the rapid re-housing funds will be used to address the needs of women experiencing homelessness as a result of domestic violence. The remainder will be used to serve the most vulnerable households experiencing homelessness based on evidence-based decision-making tools. This category will also fund ¼ of a position for Housing Navigation to supplement the investment made by the local governments during the A.B.R.T. process.
2. **Prevention:** The Haven will provide prevention services and subsidies to individuals and families in order to avoid the need for emergency shelter stays. Rental subsidies and utility payments will be provided to those individuals and families determined eligible through the use of a validated, structured decision-making tool. Priority will be given to

those households with a previous experience of literal homelessness. The Haven will use a service approach focused on providing the least amount of subsidy necessary to avoid literal homelessness and will make use of all available informal and mainstream resources in this effort. Ongoing eligibility for subsidies will be assessed every 90 days, at a minimum. Monthly case management will be provided to develop and implement a housing stability plan.

3. **Shelter:** PACEM is the recipient of V.H.S.P. funds for shelter. PACEM will continue to provide emergency, low barrier shelter beds during the winter months for the Charlottesville area. With ten years of experience as a D.H.C.D. grantee, PACEM offers the community 60 emergency beds (55 ongoing plus 5 thermal triage beds) between late October and early April when the risk of freezing is tangible for those on the streets. Annually, PACEM shelters between 200 and 225 adults. As a last resort, low barrier shelter, PACEM does not screen for substance use, mental health status, or criminal record, and provides shelter to registered sex offenders. The Families in Crisis program in the Albemarle County Public Schools is an additional recipient in this category. The program is meant to ensure the enrollment, attendance, and the success of homeless children and youth in school. In addition, emergency services, referrals for health services, transportation, school supplies, and costs related to obtaining school records may be provided.
4. **Homeless Management Information System (H.M.I.S.):** The City of Charlottesville as the award recipient will ensure that H.M.I.S. data is complete through an agreement with T.J.A.C.H. to have the Executive Director ensure data quality. Our Continuum of Care (C.O.C.) has a well-populated database for individuals experiencing homelessness. H.M.I.S. collaboration provides real-time monitoring of the needs and progress of individuals and households facing homelessness. Collaborative use of H.M.I.S. among T.J.A.C.H. C.o.C. Service Providers expedites communication and reduces the need to interface disparate documentation systems.
5. **Coordinated Assessment process:** T.J.A.C.H, with service delivery through The Haven, will establish and publicize a daily central intake process for individuals and families in need of prevention, outreach, or shelter services. These assessments will be based on the agreed-upon Coordinated Assessment Packet developed through the Community Case Review which includes required demographic data elements, a vulnerability assessment, and release of information forms. Based on information gathered through the coordinated assessment process, clients will be referred to prevention services, emergency shelter services, housing navigation services, rapid re-housing services or permanent supportive housing resources. T.J.A.C.H. has made a commitment to using best-practice approaches and validated, structured decision-making tools to determine which resources will be most effective for people experiencing homelessness. These tools include the Shinn/Greer brief screener for access to prevention services, the Vulnerability Index for Service Provision and Decision-Making Assessment Tool (V.I-S.P.D.A.T.) for access to rapid re-housing services, and the Community Case Review for collaborative problem-solving when the correct resource is not evident or available.
6. **Continuum of Care Planning:** T.J.A.C.H. will act as the lead agency of homelessness, conducting an annual Point in Time homeless census and submitting an annual Housing Inventory Chart. T.J.A.C.H. will track progress made on the goals of the Community Plan to End Homelessness, revising this plan as directed by the T.J.A.C.H. Governance

Board. T.J.A.C.H. will support the operation of the Community Case Review, identifying a convener and anchor agencies willing to work collaboratively on the development of housing stabilization plans for people who have been housed through rapid re-housing services. T.J.A.C.H. will review sub-contractor invoices, collect documentation, establish monitoring protocols and submit monthly invoices to the City for activities conducted under the V.H.S.P.

7. **Administration:** The City of Charlottesville as the award recipient is eligible for an administrative fee. Staff proposes that we pass these dollars through to T.J.A.C.H. to support the planning efforts of the Coalition.

Community Engagement:

This grant and plan are the product of extensive engagement of the service provider community for persons experiencing homelessness. This partnership is reflective of the new governance model for T.J.A.C.H. and the priority requests of the Interfaith Movement Promoting Action by Congregations Together (I.M.P.A.C.T.).

Alignment with City Council's Vision and Strategic Plan:

This grant advances the City of Charlottesville's Strategic Plan goal #1 of enhancing the self sufficiency of our residents. Specifically, it will facilitate the objective of increasing affordable housing options. This item primarily aligns with Council's vision for Quality Housing Opportunities for All. Outcomes will demonstrate a coordinated assessment process, individuals and families linked to housing and other resources, and the length of time homelessness was experienced. This grant also fosters the ideals of Community of Mutual Respect and Economic Sustainability by providing services to vulnerable citizens and promoting self-sufficiency.

Budgetary Impact:

This grant will be entirely State, and Federal pass-through funds. No local match is required. There is no budget impact for the City of Charlottesville. All funds will be distributed to sub-recipients for service provision.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

Council may elect to not accept the funds and the community will not have the capacity to administer the following services to persons experiencing homelessness: shelter, prevention funds, rapid rehousing, H.M.I.S., and administration.

Attachments:

Sub Grant agreement and amendment are attached.

APPROPRIATION.
Virginia Homelessness Solutions Grant \$477,151.
Housing Opportunities for Persons with AIDS \$186,940.

WHEREAS, The City of Charlottesville, through the Department of Human Services, has received the Virginia Homelessness Solutions Grant from the Virginia Department of Housing and Community Development in the amount of 664,091;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$664,091 is hereby appropriated in the following manner:

Revenues

| | | | |
|-----------|-----------|---------------------|-------------------------------------|
| \$207,324 | Fund: 209 | IO: 1900268 (VHPS) | G/L: 430110 State Grants |
| \$269,827 | Fund: 209 | IO: 1900268 (VHSP) | G/L: 430120 Federal Pass-Thru State |
| \$190,612 | Fund: 209 | IO: 1900269 (HOPWA) | G/L: 430120 Federal Pass-Thru State |

Expenditures

| | | | |
|-----------|-----------|---------------------|---------------------------------|
| \$459,941 | Fund: 209 | IO: 1900268 (VHSP) | G/L: 530550 Contracted Services |
| \$190,612 | Fund: 209 | IO: 1900269 (HOPWA) | G/L: 530550 Contracted Services |

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon receipt of \$664,091 in funds from the Virginia Department of Housing and Community Development.

CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



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|------------------|--|
| Agenda Date: | September 19, 2016 |
| Action Required: | Appropriation |
| Presenter: | Mike Rogers, Deputy Chief – Operations, Charlottesville Fire Dept. |
| Staff Contacts: | Mike Rogers, Deputy Chief – Operations, Charlottesville Fire Dept. |
| Title: | Fiscal Year 2017 Fire Programs Aid to Locality Funding (Firefund) Appropriation - \$141,082 |

Background: The Code of Virginia provides for the collection of an annual levy each fiscal period from the insurance industry. Such levy is collected by the State Corporation Commission, and the amounts collected are then transferred into the Fire Program Fund (Firefund). These aid to locality monies are then distributed to the jurisdictions to supplement the localities funding for fire service based training, training supplies, training equipment, prevention activities, and some response equipment. This is an annual allotment of funding. All usage and any carryovers are reported out to the Department of Fire Programs at the end of the fiscal period before the next fiscal period monies are granted. The City of Charlottesville has been awarded \$141,082 in these funds for FY 2017.

Discussion: The Aid to Locality monies are distributed annually to aid departments in their training, prevention, and equipment efforts. While the monies cannot be used to directly/indirectly supplant or replace other locality funds, they help us to provide for additional firefighting training resources, logistics, courses, and equipment as outlined in the Department of Fire Programs Aid to Locality allowable uses chart.

Alignment with Council Vision Areas and Strategic Plan: The Aid to Locality/Firefund allocation supports the City’s mission “To provide services and facilities that promote an excellent quality of life for everyone in the community” by providing supplemental training and equipment funding for fire prevention, firefighting, hazardous materials, and technical rescue. With this additional funding being put towards these purposes we are better able to prepare our responders to deliver emergency services and/or information to the citizens, students, business community members, and guests of the City.

The assistance from this annual funding allotment also aligns with Goal 2.1, Provide an effective and equitable public safety system, as well as the elements within Goal 4 - Be a well-managed and successful organization.

Community Engagement: N/A

Budgetary Impact: There is no impact to the General Fund, as these are grant funds. The initial FY 2017 disbursement at 90% is slated to transfer to the City's grant fund no later than 9/23/16, with the remaining 10% to be transferred later in the given fiscal year.

Recommendation: Staff recommends approval and appropriation of grant funds.

Alternatives: If Aid to Locality funding is not appropriated, the Fire Department will not be able to utilize this supplemental funding to help support its training, prevention, and equipment efforts.

Attachments: N/A

APPROPRIATION

Fiscal Year 2016 Fire Programs Aid to Locality Funding (Firefund) Appropriation - \$141,082

WHEREAS, the Virginia Department of Fire Programs has awarded a grant to the Fire Department, through the City of Charlottesville, specifically for fire service applications.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a total of \$141,082.00 be appropriated in the following manner:

Revenues - \$141,082

\$141,082 Fund: 209 I/O: 1900010 G/L Account: 430110

Expenditures - \$141,082

\$141,082 Fund: 209 I/O: 1900010 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$141,082 from the Virginia Department of Fire Programs.

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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA**



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|-------------------------|---|
| Agenda Date: | September 19, 2016 |
| Action Required: | Approval of Appropriation |
| Staff Contacts: | Stacy Pethia, Housing Program Coordinator |
| Presenter: | Stacy Pethia, Housing Program Coordinator |
| Title: | Appropriation of Funds - \$10,000 Returned from Charlottesville Affordable Housing Fund (CAHF) Award to Albemarle Housing Improvement Program (AHIP) and Habitat for Humanity of Greater Charlottesville (Habitat) |

Background:

On November 21, 2011, City Council awarded \$35,000 in CAHF funds jointly to AHIP (which would serve as the fiscal agent) and Habitat. These funds were approved to allow these two organizations to undertake planning and a pilot demonstration project for the “Build a Block” program. This funding was approved based on the need to identify an approach that would allow the City, through these non-profits, to address substandard housing in one or more defined impact areas (to be identified through the planning process) while preserving affordable housing without the harmful effects of gentrification. The budget included \$25,000 for planning related expenses related to AHIP’s involvement and another \$10,000 for a pilot initiative that would be undertaken by Habitat.

The planning process resulted in a report and a subsequent request by AHIP for CAHF funding of the Block by Block Charlottesville project in the Tenth and Page neighborhood.

In a recent review of the project, City staff identified that while funds were released for the pilot initiative that a demonstration effort never materialized due to a variety of factors. Accordingly, the \$10,000 released by the City was never used. Based on discussions with both AHIP and Habitat to determine what happened and what factors led to this, staff determined that the circumstances were beyond the control of AHIP / Habitat, but that the funds should be returned to the CAHF.

Discussion:

Funds received from AHIP, \$10,000, (which served as the fiscal agent for this project) need be appropriated to the Charlottesville Affordable Housing Fund (CP-084), effectively returning these funds to their original source.

Community Engagement:

There has been no direct community engagement on this issue.

Alignment with City Council Vision and Strategic Plan:

Approval of this agenda item aligns indirectly with Council’s vision for Charlottesville to provide *Quality Housing Opportunities for All* and Goal 1, Objective 1.3 of the Strategic Plan to *increase affordable housing options*.

Budgetary Impact:

The funds will be appropriated into the Charlottesville Affordable Housing Fund, which is a part of the City’s Capital Improvement Program Fund.

Recommendation

Staff recommends approval of the appropriation.

Alternatives:

There is no viable alternative for appropriation of the funds, as these funds need to be returned to their original source (Charlottesville Affordable Housing Fund).

Attachments: N/A

APPROPRIATION
Charlottesville Affordable Housing Fund (CAHF)
Return of Funds by
Albemarle Housing Improvement Program (AHIP)
and Habitat for Humanity of Greater Charlottesville (Habitat) - \$10,000

WHEREAS, the City of Charlottesville has received funds from AHIP and Habitat (\$10,000) for the unused portion of a FY 11/12 CAHF project that was initially budgeted for a pilot demonstration program; and

WHEREAS, funds should be reimbursed to the Charlottesville Affordable Housing Fund; and

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$10,000 is appropriated as follows:

Revenues

| | | | |
|----------|-----------|-----------------|------------------|
| \$10,000 | Fund: 426 | Project: CP-084 | G/L Code: 451050 |
|----------|-----------|-----------------|------------------|

Expenditures

| | | | |
|----------|-----------|-----------------|------------------|
| \$10,000 | Fund: 426 | Project: CP-084 | G/L Code: 599999 |
|----------|-----------|-----------------|------------------|

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



| | |
|------------------|---|
| Agenda Date: | September 19, 2016 |
| Action Required: | Approve Resolution |
| Presenter: | Stacy Pethia; Housing Program Coordinator |
| Staff Contacts: | Stacy Pethia; Housing Program Coordinator |
| Title: | Amendment of Charlottesville Affordable Housing Fund Agreement with Piedmont Housing Alliance Down Payment Assistance Program for Orangedale and Prospect Neighborhood |

Background:

On May 18, 2015, City Council approved funding for Piedmont Housing Alliance (PHA) to implement a Down Payment Assistance Program to benefit those at or below 80% AMI to enable them to purchase homes within the Orangedale and Prospect Neighborhood. A total of \$181,125 was approved and included \$110,000 in down payment assistance loans, \$62,500 in home repair grants (to be used in conjunction with down payment assistance to make repairs) and \$8,625 in administrative expenses to cover PHA staff and related costs.

To date, only \$6,625 has been spent on administrative expenses; however, no down payment assistance or associated home repairs have been made despite various neighborhood meetings, workshops and housing counseling efforts. PHA is not sure of all the factors involved; however, a low inventory of homes for sell, limited interest and lack of ability to qualify for assistance are certainly among the issues impacting this program.

In order to utilize funds and provide assistance, PHA has asked the City to consider an amendment. This amendment is focused on four primary changes as follows:

1. Change to Targeted Area: PHA has asked that the target area be expanded from the Orangedale and Prospect Neighborhood only to encompass the entire City, with priority given to current Orangedale/Prospect residents (via targeted outreach).
2. Imposition of Maximum Sales Price: PHA has asked that the program impose a maximum sales price of \$200,000, as the original focus of this program was to target a uniquely affordable area of housing in the city and this limit would preserve that goal while expanding the area.
3. Elimination of minimum housing ratio and establishing maximum debt ratios: PHA initially established a minimum debt ratio of 23% (up to 60% AMI) and 26% (between

60 and 80% AMI) to provide a means by which to demonstrate need; however, families are already demonstrating need by virtue of their low income. Accordingly, PHA proposes to eliminate the minimum and establish a maximum (33% for housing and 44% for all monthly debt) instead to ensure that families are not borrowing more than they can afford to pay.

4. Reduce the deed of trust security from 15 years to 10 years: PHA anticipates most families will receive between \$15,000 and \$40,000 in down payment assistance.

A copy of this request is attached hereto; however, it should be noted that staff does not support proposed change number 4 which calls for a reduction in the term of the deed of trust. All other terms of the original program would remain the same, including use of the home improvement grants (averaging \$12,500) to make necessary upgrades to homes to be purchased.

Discussion:

Staff has closely monitored quarterly reports for this project over the past year. In fact, discussions with PHA regarding lack of progress led to submission of this amendment request.

As for efforts to date, it is clear that PHA has undertaken community outreach, education and counseling as initially proposed and even taken additional steps such as 1) participation in the Greenstone on 5th Community Day in June, 2) the Orangedale Community Clean Up event in April, and 3) meeting with Charlottesville Abundant Life Ministries to promote homeownership. PHA has also attended a recent Fifeville Neighborhood Association meeting to present program information in hopes of connecting with those that would potentially have an interest in the program.

Despite on-going efforts, PHA believes that an amendment is necessary in order to allow for down payment assistance and home repair funds to be used.

Alignment with City Council's Vision and Strategic Plan:

Approval of this agenda item aligns indirectly with Council's vision for Charlottesville to provide *Quality Housing Opportunities for All* and Goal 1, Objective 1.3 of the Strategic Plan to *increase affordable housing options*.

Community Engagement:

There have been multiple meetings held to promote interest and to distribute information about this program. In addition to those listed above, three neighborhood meetings have been held (2 evening and one on a Saturday) as well as various workshops dealing with money management and budgeting/savings; credit and credit enhancements; understanding your rights related to fair housing and predatory lending; and home buying. PHA has also performed one-on-one housing counseling for those who have expressed an interest in this program. While there has been some limited participation that holds promise, to date no one has been able to actually utilize/participate in the down payment assistance program.

Budgetary Impact:

No additional funds are being requested, so there is no impact to the budget.

Recommendation:

Staff recommends approval of the resolution, and recommends that additional time be provided, extending the time of grant performance from December 31, 2016 to June 30, 2017.

Alternatives:

Council could decide not to approve this amendment and either request that PHA undertake additional outreach to allow the program additional time to succeed and/or request that PHA return the remaining funds to the City. To do so would be to remove any chance for achieving even partial success of the original goals.

Attachments:

PHA request dated July 18, 2016
Resolution

RESOLUTION
Amendment of Charlottesville Affordable Housing Fund Agreement with Piedmont Housing Alliance Down Payment Assistance Program for Orangedale and Prospect Neighborhood

WHEREAS, the City of Charlottesville awarded for a pilot demonstration program to Piedmont Housing Alliance for the purpose of providing down payment assistance and home repairs to potential homebuyers within the Orangedale and Prospect Neighborhood; and

WHEREAS, after one year of outreach efforts Piedmont Housing Alliance has been unsuccessful in identifying viable program participants; and

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that Piedmont Housing Alliance be allowed to amend the project so as to:

1. expand the program to encompass the entire City,
2. impose a maximum sales price of \$200,000,
3. eliminate the minimum debt ratio and replace it with a maximum ratio of 33% for housing and 44% for all monthly debt, and
4. extend the time of performance until September 30, 2017.



July 18, 2016

Kathy McHugh, Housing Specialist
Charlottesville Neighborhood Development Services
PO Box 911
Charlottesville, VA 22902

Dear Kathy,

Piedmont Housing Alliance is formally requesting an amendment to the Grant Agreement for the City of Charlottesville- Charlottesville Affordable Housing Fund (CAHF) Piedmont Housing Alliance Orangedale and Prospect DPA Project – City Account P-0672. Specifically we are requesting:

1. A six month extension on the **Time for Performance to June 30, 2017**.
2. Amendment to **Exhibit 2 Paragraph “Home Purchase Financing”** – specific changes and reasoning below, followed by proposed new paragraph.
 - a. **Change to Targeted Area:** We propose expanding the targeted area to encompass the entire city of Charlottesville but will give priority to current Orangedale/Prospect neighborhood residents.
 - b. **Imposing Maximum Sales Price Guideline:** We would like to impose a maximum sales price of \$200,000. Originally this program was designed to target a uniquely affordable area of housing in the city. Imposing this limit preserves that goal while expanding the targeted area.
 - c. **Imposing maximum debt ratios and eliminating minimum housing ratios:** Because this program is designed to empower low income families with affordable homeownership we believe the use of a minimum housing ratio is not necessary. Originally that guideline was in place as a means of demonstrating need, however these families are demonstrating their need by their low income and inability to save for a down payment due to the high rent prices in Charlottesville. Imposing maximum debt ratios of 33% for housing and 44% for all monthly debt ensures that these families are not borrowing more than they can afford to pay each month.
 - d. **Reducing deed of trust security from 15 years to 10 years:** Because we anticipate the families assisted with this program will receive less than \$40,000 we would like to reduce the affordability period to reflect state guidelines for amounts received between \$15,000 and \$40,000 to bear a 10 year affordability period.

Proposed New Exhibit 2 Paragraph "Home Purchase Financing"

Down payment and closing cost funds will assist at least 3 households who buy a home in the City of Charlottesville at or below a price of \$200,000.00. Eligible home buyers must be first-time homebuyers¹, earn 80% or less of the area median income, be able to qualify for a first mortgage and must have lived or worked in Charlottesville for at least six months. Priority will be given to current Orangedale/Prospect residents, via targeted outreach. The down payment and closing cost assistance loans may provide up to 20% of the purchase price. Debt ratios will be restricted to 33% maximum housing debt (to include PITI, MIP and HOA) and 44% total monthly debt. There is no minimum housing debt ratio for this program. Repayment will be deferred at 0% interest, secured with a 10 year deed of trust, and payable upon resale of the home or when homebuyer ceases to occupy the home as their principle residence. The deed of trust will be forgiven on a proportionate basis over the 10 years. Home improvement grants averaging \$12,500 will be available to those households purchasing in the Orangedale Prospect neighborhood and receiving down payment assistance, to be used in connection with AHIP to provide critical home repairs and/or important energy-efficiency upgrades. In addition, we will encourage access to our special allocation of below-market VHDA first mortgage financing, which saves homebuyers .5% interest on their loan.

Thank you for consideration of these grant amendments in support of our partnership to promote affordable home ownership opportunities in the City. Please contact me if you have any questions.

Sincerely,



Karen Reifenberger, COO

¹ See definition on page 4. Should an interested homebuyer not meet this definition, an exception request will be presented to the City's Housing Development Specialist for consideration.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



| | |
|------------------|--|
| Agenda Date: | August 15, 2016 |
| Action Required: | Ordinance: Two Readings and Adoption |
| Presenter: | Lisa Robertson, Chief Deputy City Attorney |
| Staff Contacts: | Lisa Robertson |
| Title: | Zoning Text Amendment ZT-16-0002: Telecommunications Facilities |

Background:

Previously, by resolution, City Council initiated this zoning text amendment (ZT-16-0002) at the behest of attorneys for attorneys for wireless telecommunications service providers. The attorneys requested several changes to zoning ordinance provisions that regulate “telecommunications facilities” set forth within City Code Chapter 34 (Zoning). The requested changes that have been received over the course of the past couple of years may be summarized as: **(i)** deletion of the provision that prohibits antennas on buildings that are less than 40 feet tall; **(ii)** allowance of microcells throughout the city, and **(iii)** a request to allow a specific type of support structure (an “alternative tower”) in every zoning district. Additionally, our ordinance has not been updated since 2003. Federal law, and communications technologies, have changed significantly during that time, and the terminology and application review procedures contained in the City Code are outdated. This proposed amendment will serve as the “code audit” for this portion of the City’s zoning ordinance.

On July 12, 2016, following a joint public hearing with City Council, the Planning Commission recommended approval of ZT-16-0002 as presented, with two recommended additions: **(1)** no part of any antenna/ attachment device may be lower than the level of the floor of the second story of the building to which the antenna is attached, or 15 feet, whichever is greater, and **(2)** if an “appurtenance” is used as an attachment structure, then no part of an antenna/ attachment device may project above the top of the appurtenance. The attached ordinance reflects the

amendments previously initiated by City Council, with the **Planning Commission's recommended additions highlighted in yellow** within **Sec. 34-1074 of the proposed ordinance**.

Discussion:

(i) Our office and the Planning Commission **do recommend** that you **should remove the 40-foot limitation** on the height of an attachment structure. Although variations of this type of restriction can be found in other localities' ordinances, we have been unable to locate any staff with an institutional memory (or current opinion) as to the land use objectives furthered by the restriction of the height of the attachment structure itself. Instead, the Planning Commission's recommendation is to substitute a regulation of the height at which an antenna can be mounted on a building; their discussion included reference to a desire to protect the street-level pedestrian experience. Some of the more recent technologies (e.g., deployment of broadband services) utilize smaller antennas/ cells, mounted closer to ground level, at regular intervals. The proposed amendments, as recommended by the Planning Commission, will allow these type of technologies to be effectively installed.

(ii) We **do not recommend adding special provisions for microcells**, and the proposed amendments delete references to any specific type or form of antennas (such as "whips", "panels" and "discs", *see* proposed amended definition of "antenna", sec. 34-1200). The proposed amendments update the current definition of "antenna" to encompass a broad range of technologies, and then, within use matrices and substantive regulations, focus the regulations on siting issues and historic district impacts of communications facilities, of any nature. We also **do recommend that** the provisions of **34-1073 (facilities by district) should be modified** to avoid repeating references to uses allowed by the use matrices in *all* zoning districts (*i.e., attached facilities (i) mounted on utility poles, and (ii) mounted on other support structures, not visible*).

(iii) We **do not recommend permitting "alternative towers" within any zoning district**, at least not as that term is currently defined. If you'd like to offer providers an option for installing disguised freestanding structures, built solely for the purpose of supporting an antenna (for example: a monopole and antenna array disguised to look like a tree), then, at your option, the "alternative tower" definition can be revised to clarify that. The Planning Commission's discussion included comments expressing a desire not to enact a regulation that might inadvertently encourage a lot of false structures/ false facades to be constructed throughout the city, and they decided that this issue requires more study as to how this type of tower might be implemented in an urban setting, if that becomes necessary.

(iv) We **do recommend** substantially **editing** the sections governing the permitting and approval processes, **to reflect requirements of federal law**.

Alignment with Council Vision Areas and Strategic Plan:

The changes reflected in the attached proposed ordinance align with City Council’s vision to be a great place for all citizens to live (be a leader in innovation, flexible and progressive in anticipating needs of citizens); to achieve economic sustainability (access to broadband internet services is widely recognized as necessary for a business-friendly environment and small-business opportunities);

Community Engagement:

The proposed zoning text amendments have been the subject of a joint public hearing conducted on July 12, 2016 after notice as required by law. Also, prior to your initiation of ZT-16-0002, attorneys for the service providers were given an opportunity to review the proposed ordinance and to comment on the proposed provisions.

Budgetary Impact:

No budgetary impacts are anticipated.

Recommendation:

The City Attorney’s Office recommends that Council adopt the attached Ordinance.

Alternatives:

City Council may decline to move forward with the proposed text amendment, and (i) may, by motion, defer further consideration of the ordinance until a later date, or (ii) may, by motion, vote to deny (reject) the text amendments.

Attachments:

- (1) Proposed Ordinance

ORDINANCE
AMENDING AND RE-ENACTING CHAPTER 34 (ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, TO UPDATE REGULATIONS SET FORTH WITHIN ARTICLE IX (GENERAL REGULATIONS), DIVISION 5 (TELECOMMUNICATIONS FACILITIES) TO COMPLY WITH REQUIREMENTS OF FEDERAL LAW AND TO MODIFY THE HEIGHT REQUIREMENTS APPLICABLE TO ATTACHED FACILITIES

WHEREAS, by resolution City Council initiated this zoning text amendment; and

WHEREAS, a public hearing on the Proposed Zoning Text Amendment was held jointly by the Planning Commission and City Council on July 12, 2016, after notice to the public and to adjacent property owners as required by law, and following conclusion of the public hearing the Planning Commission voted to recommend approval of the Proposed Zoning Text Amendment as presented, with two additions; and

WHEREAS, after consideration of the Planning Commission’s recommendation, this Council is of the opinion that that the proposed zoning text amendment has been designed to give reasonable consideration to the purposes listed in Sec. 15.2-2283 of the Code of Virginia (1950), as amended, and this Council hereby finds and determines that: (i) the public necessity, convenience, general welfare and good zoning practice require the proposed zoning text amendment, and (ii) the proposed zoning text amendment is consistent with the Comprehensive Plan; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Chapter 34 of the Code of the City of Charlottesville (1990), as amended, is hereby amended and re-enacted as follows:

1. Sec. 34-420 (Use matrix—Residential districts) of Article III (Residential Districts), Sec. 34-480 (Use matrix—Commercial districts) of Article IV (Commercial Districts), and Sec. 34-796 (Use matrix—Mixed use corridor districts) of Article VI (Mixed Use Districts), of Chapter 34 (Zoning), are hereby amended and re-enacted, to incorporate the following changes in the columns titled “Use Types”:

| |
|--|
| <i>Use Types....</i> |
| NON-RESIDENTIAL: GENERAL AND MISC. COMMERCIAL |
| Communications facilities and towers: |
| Antennae or microcells mounted on existing towers established prior to 02/20/01 |
| Attached facilities utilizing utility poles or other electric transmission facilities as the attachment structure |

| |
|---|
| Attached facilities not visible from any adjacent street or property |
| Attached facilities visible from an adjacent street or property |
| <u>Carrier on Wheels (COW)*</u> [*Note: Insert “P” in all Commercial district columns for this use] |
| <u>Towers</u> Alternative tower support structures |
| Monopole tower support structures |
| Guyed tower support structures |
| Lattice tower support structures |
| Self-supporting tower support structures |

2. Chapter 34 (Zoning), Article IX (General Regulations), Division 5 (Telecommunications Facilities), is hereby amended and re-enacted, as follows:

Sec. 34-1070. Purpose and intent.

The purpose and intent of this division is to provide regulations that will serve the interests of the public necessity, convenience, general welfare and good zoning practice, by ensuring that residents, businesses and public safety operations within the City of Charlottesville have reliable and convenient access to communications networks, while also ensuring a convenient, attractive and harmonious community; protection against destruction of or encroachment upon historic areas; and encouragement of economic development. The provisions of this division are also intended to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including, without limitation, Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012. establish guidelines for the siting of communications towers and personal wireless service facilities. The goals of this division are to:

- ~~(1) Allow for a range of locations for communications towers and personal wireless service facilities, subject to clear buffering and safety standards.~~
- ~~(2) Encourage the joint use of new and existing support structures, and minimize the total number of communications towers and personal wireless service facilities throughout the community.~~
- ~~(3) Encourage users of communications towers and personal wireless service facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.~~
- ~~(4) Minimize adverse visual impacts of towers and antenna through careful design, siting, landscaping screening and innovative camouflaging techniques.~~
- ~~(5) Encourage users of communications towers and personal wireless service facilities to configure them in a way that minimizes adverse visual impact;~~
- ~~(6) Promote compatibility of communications towers and personal wireless service facilities with surrounding land uses, and protect the attractiveness, health, safety, general welfare and property values of the community.~~
- ~~(7) Avoid potential damage to adjacent properties from tower failure through responsible engineering practices and careful siting of tower structures.~~
- ~~(8) Minimize traffic impacts on surrounding residential areas.~~

- ~~(9) Maximize and encourage use of alternative tower structures as a primary option rather than construction of additional single use towers.~~

Sec. 34-1071. Definitions.

For definitions of special terms utilized within this division, refer to Article X (Definitions), section 34-1200.

Sec. 34-1072. Nonconforming facilities Applicability.

- (a) Communications facilities that were legally permitted on or before the date this ordinance was enacted, but which do not conform to current zoning regulations, shall be considered lawful, nonconforming uses. A communications facility or tower that was completely constructed on a site prior to February 20, 2001, in any zoning district, shall be considered a conforming use.
- (b) A collocation shall not be construed as an expansion, enlargement or increase in intensity of an existing nonconforming tower or base station, provided that the collocation does not involve any Substantial Change. A communications facility, in any zoning district, which has received city approval in the form of either a building permit, site plan approval or special use permit, but which has not yet been constructed or placed into operation on February 20, 2001, shall be considered an existing, conforming use if the building permit, site plan approval or special use permit remains valid, and has not expired.
- (c) City Council may, by special use permit, authorize a Substantial Change of a nonconforming tower or base station. Placement of an attached communications facility on a legally non-conforming structure shall not be considered an expansion of the non-conforming structure.
- ~~(d) The requirements of this division shall supersede conflicting requirements contained in other city zoning or site plan ordinances regarding the siting and permitting of communications facilities.~~

Sec. 34-1073. Design control Facilities by districts.

- (a) Within the city's historic and entrance corridor overlay districts attached communications facilities that are visible from any adjacent street or property are prohibited; provided, however, that by special use permit, City Council may authorize such facilities on a specific lot.
- (1) The following shall be permitted uses: antennae or microcells mounted on existing communications towers established prior to February 20, 2001; attached communications facilities utilizing utility poles or other electric transmission facilities as the attachment structure; and other attached communications facilities if such other attached communications facilities are not visible from any adjacent street or property.
- (2) The following shall be prohibited uses: attached communications facilities where such facilities are visible from any adjacent street or property, and communications facilities utilizing alternative tower, monopole tower, guyed tower, lattice tower and self-supporting tower support structures.
- (b) In the event of a conflict between the provisions of this section and the provisions of the use matrix for any applicable zoning district, the provisions of this section shall govern.
- ~~(b) Within other zoning districts of the city, the permitted communications facilities are identified within the use matrix for the applicable districts. Facilities other than those identified within the use matrix for a particular district shall be prohibited.~~

Sec. 34-1074. Height; measurement of changes.

- (a) Where attached communications facilities are permitted within a zoning district, ~~the attachment structure shall be at least forty (40) feet in height, and~~ the total height of the communications facility (including the attachment structure, antenna and any attachment device(s)) shall not be more than twenty (20) feet greater than the original height of the attachment structure, and:
- (1) no part of any antenna or attachment device shall be lower than (i) the level of the floor of the second story of the building that serves as the attachment structure, or (ii) fifteen (15) feet measured from grade level, whichever is greater; and
- (2) in cases where an appurtenance (as defined in City Code Sec. 34-1200) is utilized as an attachment structure, no part of any antenna or attachment device may project above the top of the appurtenance.
- (b) The following ~~height~~-restrictions shall apply to freestanding communications facilities, wherever located:
- (1) Where a support structure is used by and for a single antenna ~~communications facility~~, maximum height shall not exceed seventy (70) feet.
- (2) Where a support structure is used by and for two (2) co-located antennas ~~communications facilities~~, then maximum height shall not exceed one hundred (100) feet.
- (3) Where a support structure is used by and for three (3) or more co-located antennas ~~communications facilities~~, then maximum height shall not exceed one hundred fifty (150) feet.
- (4) The height of a freestanding communications facility shall be determined by the number of antennas for which binding commitments can be demonstrated at the time of approval. No freestanding communications facility shall be permitted to be constructed when the number of antennas that may be installed on it is speculative at the time of any approval.
- (c) ~~By special use permit, City Council may modify Any communications facility that exceeds the height restrictions or dimensions allowed by right under paragraphs (a) or (b)(1)-(3), above, shall require a special use permit.~~
- (d) When an application involves or proposes a change in the height of any communications facility, the change in height will be measured from the original support structure, in cases where deployments are or will be separated horizontally (such as on the rooftop of a building); in other circumstances, changes in height will be measured from the dimensions of the tower or base station—inclusive of originally-approved appurtenances and any modifications that were approved prior to the passage of the federal Spectrum Act (P.L. 112-96, signed February 22, 2012).

Sec. 34-1075. Setback requirements.

- (a) All communications facilities shall comply with the minimum setback and yard requirements of the zoning district in which they are located.
- (b) Each tower and base station Support structures shall be set back from all property lines a distance equal to its engineered fall zone for freestanding communications facilities shall be located on a lot in such a manner that, in the event of collapse, the structure and supporting devices shall be contained within the confines of the property lines.
- (c) No above-ground portion of any freestanding communications facility shall project into a required setback more than the maximum projection permitted in the zoning districts in which the facility or antenna is located. Any communications facility that projects over a public right-of-way shall have a

minimum clearance of sixteen feet six inches, and is subject to city council's approval of a right-of-way use agreement for the facility itself, or for the structure to which it is attached.

- (d) Where ~~alternative tower~~, monopole tower, lattice tower or other self-supporting tower support structures are permitted, either by right or by special use permit:
 - (1) The communications facility shall be set back from any existing residence, residentially-zoned property, public street or other public property, a distance of at least the height of the PWSF or communications facility, but in no event less than one hundred (100) feet.
- (e) By special use permit, City Council may modify the requirements of paragraphs (a) or (b).

Sec. 34-1076. Separation requirements.

- ~~(a)~~ Freestanding communications facilities shall conform to the following separation requirements (i.e., minimum distance from the nearest established freestanding communications facility):

| <u>Structure Facility Height</u> | Minimum Separation Requirement |
|----------------------------------|--------------------------------|
| <50 feet | 300 feet |
| 50—100 feet | 500 feet |
| 101—150 feet | 750 feet |

- ~~(b) Alternative tower structures, and attached communications facilities, shall be exempt from the provisions of section (a), above.~~
- ~~(c)~~ (b) When a freestanding communications facility is located on a lot site containing one (1) or more ~~other buildings principal uses or other uses~~, the minimum distance between the facility tower support structure and any principal other building or principal use located on the same lot site shall be the greater of twenty (20) percent of the height of the facility communications facility, or twenty-five (25) feet.

Sec. 34-1077. Screening and landscaping.

- (a) Landscaping shall be used at ground level to screen the view of towers and base stations freestanding communications facilities from adjacent public streets and public property, and from adjacent residentially-zoned property and ~~adjacent~~ residences. The minimum landscaping requirements shall be as follows:
 - (1) For towers and base stations facilities one hundred fifty (150) feet in height or less, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting shall be spaced not more than five (5) feet apart within ten (10) feet of the perimeter of the required setback area.
 - (2) For towers and base stations more than one hundred fifty (150) feet in height, in addition to the requirements set forth in subsection (a)(1), above, at least one (1) row of deciduous trees, with a minimum caliper of two and one-half (2½) inches at the time of planting, and spaced not more than forty (40) feet apart, shall be provided within twenty (20) feet of the perimeter of the required setback area.
 - (3) All security fencing shall be screened from view.
- (b) Landscaping materials shall consist of drought-resistant native species.

- (c) Landscaping materials shall be maintained by the owner and operator of the lot on which the support structure is constructed or installed, for the life of the support structure installation.
- (d) Existing vegetation on the site shall be preserved to the greatest practical extent. Existing vegetation, topography, walls and fences, etc., combined with shrubs or other features may be substituted for the required shrubs or trees, if the director of neighborhood development services or his designee finds that they achieve the same degree of screening as the required shrubs or trees.
- (e) The requirements of this section shall not apply to an existing building that serves as the support for an antenna, but they shall apply to any related equipment and shelters placed on the ground adjacent to such buildings.

Sec. 34-1078. Lighting and security fencing.

- (a) No communications facility shall be artificially lighted, except for:
 - (1) Security and safety lighting of equipment and shelters buildings, if such lighting is appropriately down-shielded to keep light within the boundaries of the site.
 - (2) Such lighting as may be required by the FAA, FCC or other applicable governmental authority, installed in such a manner as to minimize impacts on adjacent residences. Where the FAA or FCC requires lighting "dual lighting" (red at night/strobe during day) shall be utilized unless otherwise recommended by FAA or FCC guidelines.
- (b) Security fencing shall be required around the perimeter of towers and base stations (but not for existing buildings that serve as the support for an antenna) ~~support structures and any accessory utility structures associated with freestanding communications facilities~~, in accordance with the following minimum requirements:
 - (1) Security fencing shall be maintained by the owner and operator(s) of the communications facility, for the life of the facility. Security fencing shall be constructed of decay-resistant materials, and shall be not less than six (6) feet in height.
 - (2) Security fencing shall be equipped with anti-climbing devices.
 - (3) When a For alternative tower structures where the support structure is secured so that the public cannot access any component of a wireless facility the antenna array, equipment shelter and other apparatus for a PWSF or other communications facility, security fencing shall not be required.

Sec. 34-1079. Signs and advertising.

- (a) No sign(s) shall be permitted on any communications facility, except as may be required for public safety purposes, or as required by the FAA or FCC.
- (b) No materials or markings containing any advertising or advertisement shall be permitted on any communications facility.

Sec. 34-1080. Visibility and placement.

- (a) Attached communications facilities that are permitted to be visible from adjacent streets or properties shall comply with the following standards requirements as to visibility and placement:
 - (1) ~~Where~~ Such facilities ~~are visible from adjacent properties, or from public rights of way, they shall be designed and located so as to blend in with the existing support structure. The facilities shall be attached to the support structure to the maximum extent feasible, through measures such as placement~~ in the least visible location that which is consistent with proper functioning

~~of the communications equipment, and~~ The colors of the facility and the attachment structure will be coordinated, and use of compatible or neutral colors shall be utilized.

- (2) Where such facilities are visible to adjacent residences, but have a visual impact that cannot reasonably be mitigated by placement and color solutions, the facilities shall be screened by planted materials or building appurtenances, to an extent that they are not readily apparent to the occupants of the adjacent residence ~~from view or concealed~~.
 - (3) Antennas and any supporting electrical and mechanical equipment shall be of a neutral color that is compatible with the color of the attachment structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
- (b) Attached communications facilities that are permitted only if not visible from adjacent streets or properties shall comply with the following standards:
- (1) Such facilities must be concealed by an architectural feature or lawful appurtenance of the support structure, provided that ground-level equipment may be concealed by landscape screening.
 - (2) The concealment referenced in (b)(1), above, shall be provided to such an extent that the communications facilities cannot be distinguished from the architectural feature, appurtenance, or landscape plantings used to conceal them.
 - (3) Within a design control district, any exterior construction, reconstruction, and alteration proposed for the purpose of providing concealment for any component of a communications facility requires a certificate of appropriateness.
- (c) In addition to the requirements of paragraphs (a) and (b), above:
- (1) ~~Portions of towers and base stations that extend~~ All support structures shall be of a galvanized finish, or painted gray, above a the surrounding treeline or built environment shall be painted gray or shall have a galvanized finish. Below the surrounding treeline such facilities support structures shall be painted gray or green. ~~Below ; or, below~~ the line of the surrounding built environment, such facilities structures shall be painted in a neutral color that will blends with the surrounding built environment.
 - (2) Alternative coloring or marking may be utilized if an applicant identifies. These requirements shall apply unless other coloring or marking is required by FAA or FCC regulations requiring such alternative coloring or marking.
- (e) (3) ~~Equipment shelters shall , to the extent practicable, use be fabricated, constructed and installed using materials, colors, textures, screening and landscaping that will blend with the natural setting and built environment. Equipment~~ The equipment shelters and/or cabinets used ancillary to a microcell shall be contained wholly within a building, or structure, or enclosure, unless otherwise concealed and/or camouflaged, as may be required, or located underground.
- (d) (4) ~~Collocated antennas Antennas and other broadcasting or receiving equipment collocated on a single support structure or attachment structure shall, to the greatest extent feasible, be of similar size, design, coloring and appearance.~~
- (5) For towers having a height in excess of one hundred fifty (150) feet, the number and placement of antennas or other receiving or transmitting devices collocated on a single support structure shall be limited so that, in the aggregate, the facility(ies) will not have an excessive adverse visual impact on adjacent properties, or on the view from any historic or entrance corridor overlay district.
- (de) As long as all siting, setback, separation and general requirements of this division are met, towers, where permitted, freestanding communications facilities may occupy a parcel meeting the minimum lot size requirements for the zoning district in which they are located.

- ~~(f) For freestanding communications facilities with a height in excess of one hundred fifty (150) feet, the number and placement of antennas or other receiving or transmitting devices collocated on a single support structure shall be limited so that, in the aggregate, the facility(ies) will not have an excessive adverse visual impact on adjacent properties, or on the view from any historic or entrance corridor overlay district.~~

Sec. 34-1081. Construction and operational standards.

- (a) ~~All towers and base stations shall comply with requirements of the applicable version of the Virginia Uniform Statewide Building Code (USBC). All support structures shall be constructed to comply with the Electronic Industries Association (EIA) current standards (EIA222-D, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," published by EIA, effective June 1, 1987, as from time to time amended or revised).~~
- (b) ~~All support structures shall be constructed to comply with the Virginia Uniform Statewide Building Code (USBC), effective September 1, 1973, as from time to time amended or revised, and with the provisions of any applicable city ordinance(s). Structures necessary for the housing or shelter of equipment used in direct support of a communications facility shall be allowed as accessories to the communications facility, but such structures may not be used for offices, vehicle storage or other storage. No equipment, machinery or vehicles other than that which is utilized in direct support of a communications facility shall be stored or parked at the site, except when necessary in connection with repairs to the facility.~~
- (c) ~~All communications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal or state government having authority to regulate such facilities. An applicant seeking approval of a communications facility shall be required to certify such compliance. Every twelve (12) months from the date of issuance of a building permit, or, where required, from the date of final approval of a site plan, the owner or operator of an approved communications facility shall submit to the director of neighborhood development services or his designee documentation that the communications facility complies with all applicable federal and state standards and regulations.~~
- (d) ~~The owner and operator of a tower freestanding communications facility shall provide for and conduct an inspection of the tower support structure at least once every three (3) years. Such inspection shall be conducted by a structural engineer authorized licensed to practice within the Commonwealth of Virginia. A written report of the results of the inspection shall be provided to the City's Building Official director of neighborhood development services or his designee, verifying structural integrity and the name(s) and address(es) of any tenant(s) having equipment located on the structures.~~
- (e) ~~Machinery and equipment used ancillary to a communications facility shall be automated to the greatest extent possible. Communications facilities may be located on sites containing one (1) or more other principal uses, or such facilities may be the principal use of a lot. However, multiple uses of a single lot shall be prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas or dangerous chemicals.~~
- (f) ~~Areas sufficient for the temporary off street parking of at least two (2) vehicles shall be provided for freestanding communications facilities. The type and configuration of parking may be approved by the director of neighborhood development services or his designee.~~
- (fg) ~~A copy of any road maintenance agreement for any site accessed by private easement shall be provided as part of any application for a freestanding communications facility, or for a modification of an existing such facility. Where a freestanding communications facility site abuts or has access to~~

a collector and local street, access for maintenance vehicles shall be exclusively by means of the collector street.

- ~~(h) Freestanding communications facilities in excess of one hundred fifty (150) feet of height (including antenna arrays) shall be constructed to accommodate no less than three (3) telecommunications carriers or service providers.~~

Sec. 34-1082. Collocation.

- (a) Providers of communications services are encouraged to design, construct and site their facilities PWSF and other communications facilities, attached or freestanding, in a manner that will promote with a view towards sharing facilities and support structures with other utilities, collocation with other providers, and to accommodating the future collocation of other future facilities, wherever technically, practically and economically feasible. The city shall work with telecommunications providers to facilitate the siting of PWSF or other communications facilities on city owned and other publicly owned property, by identifying existing facilities, the appropriate contact persons, and the appropriate leasing procedures.
- (b) A person seeking approval of a site plan or special use permit for a new freestanding communications facility shall document that reasonable attempts have been made to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.
- ~~(c) Accessory structures necessary for the housing or shelter of equipment used in direct support of a communications facility shall be allowed, but such structures may not be used for offices, vehicle storage or other storage. No equipment, machinery or vehicles other than that which is utilized in direct support of a communications facility shall be stored or parked at the site, except when necessary in connection with repairs to the facility.~~
- ~~(d) Communications facilities may be located on sites containing one (1) or more other principal uses; however, such joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas or dangerous chemicals.~~
- (c) Proposed collocations shall be reviewed by the city in accordance with (i) requirements of federal law, and (ii) unless pre-empted by federal law, the applicable requirements of this division.

Sec. 34-1083. Required approvals Permit processes.

- (a) Building permit. The facilities listed below may be authorized by Zoning Verification pursuant to paragraph (b), below, and issuance of a building permit, if required by the USBC): Where a microcell or attached communications facility is a permitted use, and will not exceed the by right height restrictions or dimensions set forth within this division, only a building permit shall be required.
- (1) Eligible Facility requests;
- (2) A new attached communications facility permitted by right, if such new facility meets all applicable requirements of this division;
- (3) Ordinary maintenance of a communications facility in existence on the date of an application; or
- (4) Placement of a COW at any location within the City, (i) for a single, temporary period of not more than one hundred twenty (120) days, or (ii) for any period corresponding with the duration of an emergency or disaster declared by the Governor or City Council.

- (b) Zoning Verification. Upon receipt of an application seeking approval for a facility, or modification, listed in paragraph (a), above, ~~Prior to issuance of a building permit,~~ the zoning administrator shall verify in writing that the ~~certify that~~ the proposed facility or modification meets applicable requirements of the zoning ordinance (“Zoning Verification”). If the zoning administrator determines that the facility or modification is not within the scope of (a)(1)-(4), above, or does not meet applicable zoning requirements, the zoning administrator shall notify the applicant in writing of the basis of his determination, and the facility or modification shall not be permitted until all applicable requirements have been satisfied. ~~microcell or attached communications facility meets all applicable standards and requirements set forth within this division.~~
- (1) The zoning administrator may require documentation and information to the extent reasonably related to determining whether a request is within the scope of (a)(1)-(4) above and otherwise meets applicable zoning requirements.
 - (2) Within 60 days of the date on which an applicant submits an Eligible Facility request, the request shall be approved, unless the zoning administrator determines, with the concurrence of the city attorney, that the application does not involve an Eligible Facility. For the purposes of this paragraph “approved” refers to issuance of the required Zoning Verification and approval of any certificate of appropriateness that may be required for a concealment element. All aspects of the city’s review of an Eligible Facility request shall be conducted in accordance with, and shall be governed by, the mandates set forth within 47 C.F.R. § 1.40001 (April 8, 2015), as such regulations may subsequently be amended.
 - (3) The 60-day review period (“shot clock”) begins to run from the date on which the application is filed, and it may be suspended only by mutual agreement or in cases where the city determines the application is incomplete. To suspend the running of the shot clock for incompleteness, the city must give written notice to the applicant within 30 days after the date on which the application is filed. The notice must reference all missing documents and information. Thereafter, the shot clock will begin running again when the applicant makes a supplemental submission in response to the notice. Following a supplemental submission, the city will have 10 days to notify the applicant in writing, if the supplemental submission did not provide all of the information required in the original notice. If a second or subsequent notice of incompleteness is given, the shot clock will be suspended until the next resubmission. Second and subsequent notices of incompleteness may not specify missing documents or information that were not referenced in the original notice of incompleteness.
- (c) ~~Upon application for a building permit, review will be conducted by the department of neighborhood development services and the zoning administrator, with support from other city staff and/or city-retained consultants as may be designated or deemed necessary by the director of neighborhood development services or his designee. The city shall have the right to obtain retain independent technical consultants and experts that it deems as necessary to render the required determination, and the city may properly evaluate such applications, and to require an applicant to bear the reasonable cost of such services, charge a reasonable fee for such services to the applicant as part of the required application fee. Such reasonable costs fee shall include but shall not be limited to, the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate such applications.~~
- (d) Materials required for a Zoning Verification:
- (1) Application form and related information completed and signed by the applicant, accompanied by the application fee(s) set forth within the most recent fee schedule adopted by city council;
 - (2) Copy of a property lease or notarized power of attorney from the property owner (if the applicant is not the property owner) expressly authorizing the applicant to apply for and make binding

representations as the legal agent of the owner in relation to the proposed communications facility (alternatively, the property owner may co-sign the application form);

c. An Eligible Facility request shall also be accompanied by (i) a written opinion of an attorney licensed to practice within Virginia, certifying that the facility is an Eligible Facility, (ii) drawings prepared by an engineer authorized to practice within Virginia, setting forth all dimensions, elevations and other details establishing the factual basis for the attorney's opinion, and illustrating all proposed changes in dimension—including all existing and proposed concealment elements, (iii) the date(s) and type(s) of approvals previously granted by the city for the existing facilities, and (iv) for applications involving towers or base stations within a design control district, a comprehensive concealment plan, consisting of drawings prepared by an architect or engineer authorized to practice within Virginia, demonstrating how the concealment elements for all antennas and related equipment, in the aggregate, will satisfy the standards set forth within City Code 34-276, 34-310, or 34-342, as applicable.

(e) Zoning approval shall be required for any proposed communication facility other than those referenced within paragraph (a)(1)-(4), above. Each application seeking zoning approval of a proposed communication facility shall include the following:

(1) An application form and such related materials as may be required by the director of neighborhood development services for a proper review of the request, accompanied by the application fee set forth within the most recent fee schedule adopted by city council;

(2) Copy of a property lease or notarized power of attorney from the property owner (if the applicant is not the property owner) expressly authorizing the applicant to apply for and make binding representations as the legal agent of the owner in relation to the proposed communications facility (alternatively, the property owner may co-sign the application form);

(3) A proposed final site plan in accordance with sec. 34-1084; and

(4) An application for approval of a certificate of appropriateness, and related fees and supporting materials, when required by sec. 34-275, 34-309, or 34-340.

~~(b) *Site plan.* All freestanding communications facilities, all microcells or attached communications facilities exceeding the height or dimensions specified in section 34-686, and all modifications of existing such facilities, shall require an approved site plan. For the purpose of this requirement, location of additional antennas or microcells on a previously approved facility shall not be deemed a modification of an existing facility requiring a new site plan, so long as such additional antennas or microcells themselves meet any applicable requirements of this division.~~

~~(1) Upon application for site plan review, review will be conducted by the department of neighborhood development services, with support from other city staff and/or city retained consultants as may be designated or deemed necessary by the director of neighborhood development services or his designee.~~

~~(2) The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate such applications, and to charge a reasonable fee for such services to the applicant as part of the required application fee. Such fee shall include but shall not be limited to the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate such applications.~~

~~(c) *Site plan applications.* Each applicant requesting site plan review under this division shall submit the following information as part of the application:~~

~~(1) A site plan and elevations, drawn to scale, and other supporting drawings or photographic simulations, specifying the appearance, height, location and dimensions of the proposed facility, including: support structure; equipment shelters; accessory uses; coloring of materials; parking;~~

access; landscaped areas; fences; adjacent land uses; separation and setback calculations; and property boundaries. A cross section of the support structure shall be included.

- ~~(2) A landscape plan to scale, indicating the size, spacing and type of plantings, and indicating existing significant vegetation to be removed, and vegetation proposed for planting to replace any lost vegetation; and a natural resources screening, based upon direct observation and/or generally available data sources, of the proposed support structure site; and information as to how the applicant will implement practical measures to avoid, minimize and/or mitigate (in that order of preference) potential adverse impacts.~~
- ~~(3) A utilities inventory showing the location of all water, sewer, drainage, gas, and power lines at the site.~~
- ~~(4) Information concerning support structure specifications, and compliance with applicable EIA, ANSI and USBC standards, as applicable.~~
- ~~(5) Demonstration of the structural integrity of the proposed facility and its support structure; information as to the failure characteristics of the proposed facility and its support structure; demonstration that site conditions and setbacks are adequate to contain debris within the boundaries of the site in the event of structural collapse.~~
- ~~(6) A description of anticipated maintenance and operational needs, including frequency of necessary maintenance services, personnel needs, equipment needs, and traffic, noise or safety impacts of the maintenance and operation of the facility.~~
- ~~(7) Total anticipated capacity of the support structure as proposed, including a description of the number, type, technical capabilities and limitations, and the placement of antenna or other receiving or transmitting devices to be located on the support structure, and information sufficient to enable the city to evaluate the visual impact of the proposed facility on adjacent properties and views.~~
- ~~(8) Information as to the additional tower capacity anticipated, including the approximate number and types of antennas or other equipment the structure could ultimately accommodate, together with a description of any limitations on the ability of the facility to accommodate other facilities or uses (e.g., radio frequency interference, mass height, frequency or other characteristics). The applicant shall include a description of the technical options available to overcome any listed limitations, and reasons why such technical options were not chosen to be incorporated in the proposed facility.~~
- ~~(9) A certification that the applicant has made reasonable efforts to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.~~
- ~~(10) A statement from a qualified radio frequency engineer licensed to practice in the Commonwealth of Virginia, or from the FCC, certifying that, as proposed, a communications facility complies with FCC guidelines concerning radio frequency radiation and emissions.~~
- ~~(11) Written statements from the FAA, FCC and any state governmental authority having jurisdiction or regulatory authority over the proposed facility, verifying that the proposed facility complies with all applicable regulations administered by that agency or authority, or that the proposed facility is exempt from any such regulations.~~
- ~~(12) Any other information which may be requested by the city to facilitate evaluation and review of the application.~~

~~(d) Special use permits.~~

~~The following uses may be permitted with a special use permit:~~

- ~~(1) A microcell which exceeds the dimensions specified within section 34-683 (the definition of microcell), or which is mounted on a support structure exceeding the height restrictions set forth within section 34-1074.~~
- ~~(2) An attached communications facility that exceeds the height or dimensions specified in section 34-1074.~~
- ~~(3) A freestanding communications facility that exceeds the height specified in section 34-1074.~~
- ~~(e) Where a facility is permitted by special use permit approval, receipt of final site plan approval and a building permit shall also be required. Each application for a special use permit seeking approval of a special use permit for a communications facility under this division shall include the following information and materials, in addition to the information required as part of a site plan or building permit application:
 - (1) A proposed final site plan, in accordance with 34-1084;
 - ~~(2)~~Demonstration that the proposed site is appropriate for the location of the facility. Information relevant to this factor includes, without limitation: topographic features or advantages of the site; site location in relation to provision of adequate wireless communications transmission or other type of communications broadcast, transmission or receipt; physical site characteristics in relation to the construction of the facility, including potential impacts on adjacent land uses; technical capabilities and limitations of the facility to be established; adequacy of setbacks to protect adjacent residential or public properties, or public streets in the event of a support structure failure; the ability to buffer, through use of vegetative, topographic or other measures, the impact of the use on adjacent residential or public streets or properties; impact on adjacent buildings, structures or sites of historic significance.
 - ~~(3)~~ A list of all existing support structures and antenna sites within a two-mile radius from the proposed site (list to include street address, tax parcel number, existing uses and existing height), outlining opportunities for shared use as an alternative to the proposed use. The applicant shall demonstrate that the proposed support structure, antenna or microcell cannot be accommodated by other existing approved facilities due to one (1) or more of the following reasons:
 - a. Unwillingness of the owner of the existing facilities to entertain a wireless communication facility proposal, or unwillingness of such owner to provide space on economically reasonable terms;
 - b. The planned equipment would exceed the structural capacity of existing and approved support structures and facilities, considering existing and planned use for those facilities;
 - c. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
 - d. Existing or approved support structures of facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
 - e. Other reasons, described in specific factual detail, make it impracticable to place the equipment on existing and approved support structures or facilities;
 - f. The proposed co-location of an existing support structure or antenna site would be, by virtue of the requirements of this division, any city ordinance or the city's comprehensive plan, considered a prohibited use.~~
- ~~(4)~~ A statement certifying that, as proposed, the facility is consistent with provisions of Subchapter I of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321—4335. If

an environmental assessment is performed pursuant to 47 C.F.R. Chapter I, Part I, Subpart I, a copy shall be provided to the city.

- (54) Technical, engineering, and other pertinent factors which led to the selection of the particular design and proposed height of the facility.
- (65) An inventory of the applicant's existing ~~PWSFs or other~~ communications facilities located within the city and ~~or~~ within one (1) mile of the city's boundaries, including specific information about the location, height and design of each facility.
- (76) A detailed description of any ~~the~~ gap in service (described in technical terms and geographic area) that a proposed communications facility ~~PWSF~~ is designed to serve, together with documentation that the ~~proposed PWSF is the least intrusive alternative available (e.g., that the applicant has considered alternatives that would obviate any need for the proposed installation, including, without limitation: collocation at alternative less sensitive sites, alternative system designs, alternative tower designs, etc.).~~
- (87) Any other information requested by the city to enable it to fully evaluate and review the application and the potential impact of the proposed facility.
- (9f) The criteria to be applied by the city in reviewing an application for a special use permit are as follows:
 - a. Whether the proposed facility has been designed and configured in a way that minimizes the adverse visual impact of support structures, antenna arrays and other associated structures and equipment on adjacent properties, particularly any adjacent residentially-zoned properties or any conservation or historic districts or protected properties, or any entrance corridors;
 - b. Whether the proposed facility has been designed and configured to promote compatibility with surrounding land uses and to protect the health, safety, general welfare and property values of the community;
 - c. Whether the proposed facility has been designed and configured so that it will not have undue adverse impact on traffic or parking congestion in the surrounding neighborhood or the community;
 - d. Whether the applicant has made all reasonable efforts to identify and locate opportunities for shared use (co-location) of existing support structures and antenna sites within an appropriate radius from the proposed site, as an alternative to the proposed use;
 - e. Whether the proposed facility will meet all applicable federal, state and local laws and regulations, including building, fire and safety regulations; and
 - f. Whether the proposed facility meets the applicable requirements and standards set forth within this division and within article I, division 8 of this chapter.
- (g) The planning commission shall review and make recommendations to city council concerning approval or disapproval of the application for a special use permit ~~for a PWSF or other communications facility~~, based upon its ~~the~~ review of the application materials and site plan for the proposed facility and upon the criteria set forth in this division and chapter.
 - (1) ~~The planning commission may concurrently approve a site plan subject to city council's approval of a special use permit, and subject to the necessary amendments to the site plan as a result of the city council action; or, alternatively,~~
 - (2) ~~The planning commission may choose to consider the site plan after the approval of the special use permit by the city council.~~

- (h) ~~Except as set forth above, the procedure for filing and consideration of an application for a special use permit for a communications facility is the same as that required by Article I, division 8 of this chapter for a rezoning petition, except that each application for a special use permit under this division shall, in addition, contain a site plan and other supporting data sufficient to demonstrate compliance with the purposes and standards of this division and the other requirements set forth in this division.~~
- (i) Each application for a special use permit for a ~~PWSF or other~~ communications facility, or an amendment to such a special use permit, shall be accompanied by a fee as set forth within the most recent fee schedule adopted by city council in the amount of one hundred dollars (\$100.00), plus an additional amount specified by the director of neighborhood development services or his designee, as and for the cost of technical consultant(s) and experts deemed necessary by the city. Such fee shall include but shall not necessarily be limited to the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate the application.
- (j) In granting any special use permit for a communications facility the city council may expand, modify, reduce or otherwise grant exceptions to the setback regulations, landscaping and screening requirements, height restrictions or visibility and placement restrictions set forth within this division, provided that the city council determines that such conditions are reasonable and will serve approval of the proposed facility meets the purpose and goals of this chapter. The resolution adopted by city council to grant any such special use permit shall include any exceptions or modifications as specific conditions of such permit.
- (k) Special use permits issued under the terms of this division shall be reviewed by the department of neighborhood development services no less than every five (5) years from the date of issuance for compliance with this division and any special terms or conditions of approval. Such permits are subject to suspension or revocation at any time if it is determined that the terms of the permit and any conditions contained therein, or any rules or regulations adopted by the state or federal government concerning the use of such facilities are being violated.
- (l) Special use permits for communications facilities ~~granted by the city council~~ shall be subject to the provisions of City Code Sec. 34-156 et seq., except as follows:
- (1) Application materials shall be reviewed, and zoning decisions rendered, in the following order: (i) the City's agent for approval of a site plan shall take action on the proposed final site plan, as submitted, and any approval shall be subject to the approval of a special use permit, (ii) the BAR or ERB, as applicable, shall make a decision on any required certificate of appropriateness. Approval of a COA shall be conditioned upon approval of a special use permit, and a denial of a COA shall be deemed appealed to city council for resolution in connection with its decision on the special use permit; and (iii) the planning commission and city council shall take final action on the proposed special use permit, subject to final approval of the site plan.
 - (2) All required zoning decisions referenced within paragraph (1), above, shall be completed by the City within 150 days of receipt of an application, or within 90 days if the application involves a collocation (other than an Eligible Facility request). The City's review and responses to the application shall be in accordance with requirements of federal and state law. Denial of a special use permit by city council shall be set forth in writing and must be supported by substantial evidence in the record of the proceedings.
- (m) Notwithstanding the provisions of Sec. 34-164, if a tower or base station is abandoned, and it remains abandoned for a period of at least twelve (12) consecutive months, then upon written notice to the owner, the city may require that the tower be removed, or that all communications equipment be removed from the base station, within six (6) months after the date of such notice. ~~expire eighteen (18) months from the date of permit approval, if construction of improvements necessary to the use~~

for which the permit was granted has not commenced to a degree that, in the opinion of the zoning administrator, clearly establishes the intent to utilize the granted special permit in a period of time deemed reasonable for the type and scope of improvements involved.

- (n) Procedures for the amendment of a special use permit shall be the same for the original special use permit application.
- (o) In the event of a conflict between any provisions of this article and the provisions of any applicable federal law, regulation, or binding regulatory interpretation or directive, the federal requirement(s) shall govern.

Secs. 34-1084—34-1099. Reserved.

3. Chapter 34 (Zoning), Article X (Definitions) is hereby amended and re-enacted, as follows:

Sec. 34-1200. Definitions.

The following words, terms and phrases, when used in this chapter, will have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Antenna ~~or antenna array~~ as used in Article IX, section 34-1070, et seq. means communications equipment mounted on a support structure for the purpose of transmitting, receiving, or transmitting and receiving electromagnetic radio signals used in the provision of all types of wireless communications services one (1) or more whips (omni-directional antenna), panels (directional antenna), discs (parabolic antenna) or similar devices used for broadcast, transmission and/or reception of radio frequency signals. Reference to an antenna or antenna array does not include the support structure. The following shall be excluded for the purposes of this division, from the definition of antenna and antenna array: amateur radio antennas, satellite earth station antennas one (1) meter in diameter or less; receive-only home television antennas; and satellite earth station antennas two (2) meters or less in diameter located in a commercial or industrial zoning district.

Attached communications facility and attached facility as used in Article IX, section 34-1070, et seq. and any zoning use matrix, shall mean a communications facility ~~an antenna or other communications equipment (broadcasting or receiving, including any PWSF or microcell)~~ that ~~uses~~ is attached to an existing building or structure, ("attachment structure") as its support structure. For the purposes of this definition, the term structure shall include, without limitation: utility poles, signs, and water towers; however, the term shall exclude ~~communications~~ towers. Where reference is made to an attached facility, unless otherwise specified the reference will be deemed to include any accompanying pole or device ("attachment device") which attaches the antenna ~~array or communications equipment~~ to the existing building or structure, any concealment element(s), as well as transmission cables and any equipment shelter which may be located either inside or outside the attachment structure.

Attachment structure as used in Article IX, section 34-1070, et seq. refers to the structure to which an attached communications facility is affixed.

Base station means a structure or equipment at a fixed location that enables FCC-licensed or authorized communications between user equipment and a communications network. The term does not encompass a tower or any equipment associated with a tower.

Carrier On Wheels (COW) means a portable, self-contained wireless facility that can be moved to a location and set up to provide wireless communications services on a temporary or emergency basis.

Collocation, Co-location (collocation) for purposes of Article IX, section 34-1070, et seq. shall mean the mounting or installation of antennas on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes use of an attachment structure or support structure by (i) two (2) or more wireless license holders, radio stations or television stations, or combination thereof, (ii) one (1) wireless license holder, radio station or television for more than one (1) type of communications technology, or (iii) two (2) or more communications facilities owned or operated by government or other public and quasi-public users.

Communications facility for purposes of Article IX, section 34-1070, et seq. means any antenna, ~~antenna array or other communications equipment (including any PWSF)~~ used by any commercial, governmental, or other public or quasi-public user(s). Where reference is made to a communications facility, unless otherwise specified or indicated by context, such referenced ~~will be deemed to include any base station, tower or other support structure on which the antenna or other communications equipment is mounted, any concealment element(s), and any attachment device and other equipment referenced within 47 C.F.R. §4.0001(b)(1)(i)-(ii) transmission cables, and any associated equipment shelter.~~

Concealment element means an architectural feature or treatment (paint, for example), landscaping, screening or other means or method of rendering a communications facility invisible, or minimally visible, from adjacent streets and properties, as may be required by Article IX, sec. 34-1070 et seq.

Communications facility, freestanding for purposes of Article IX, section 34-1070, et seq. means any communications facility other than an attached communications facility or a microcell located on an existing building, pole or other existing support structure.

Dish antennas means a satellite antenna, also known simply as a "dish," used for satellite communication and broadcast reception.

Eligible Facility means an eligible support structure proposed to be modified in a manner that does not result in a Substantial Change, and such modification involves: (i) collocation of transmission equipment, (ii) removal of transmission equipment; or (iii) replacement of transmission equipment. As used in Article IX, sec. 34-1070 et seq. of this chapter, the term "Eligible Facility request" means a request seeking a determination that the proposed modification of an existing tower or base station is an Eligible Facility.

Eligible support structure means any tower or base station that is existing at the time of an Eligible Facility request. For the purposes of this definition, a constructed tower or base station is "existing", if it has been reviewed and approved under the applicable zoning or siting process, or another state or local regulatory review process (provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition).

Freestanding communications facility means any tower.

Microcell for purposes of Article IX, section 34-1070, et seq. means a facility for wireless communications, consisting of an antenna that is either: (i) not more than four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or (ii) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length.

Personal wireless service facility (PWSF) means an unstaffed communications facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, transmission cables, an equipment shelter and a support structure to achieve necessary elevation.

Radio and television broadcasting station means an establishment engaged in transmitting oral and visual programs to the public and that consists of a studio, transmitter, and antennas.

Tower, alternative means for purposes of Article IX, section 34-1070, et seq. means a support structure that camouflages or conceals the presence of the antenna array, equipment shelter and other

apparatus for a PWSF or other communications facility, to an extent that the communications facility is either invisible or otherwise made an integrated part of the feature enclosing it. Examples of an alternative tower structure include, but are not limited to: clock towers, bell towers, church steeples, water towers, and light poles.

Substantial Change, for purposes of Article IX, section 34-1070 et seq., means a modification of an existing tower or base station, if (i) for a tower outside a public right-of-way: the modification increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet, whichever is greater; and, for a tower located within a public right-of-way, and for a base station: the increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater; (ii) for a tower outside a public right-of-way: the modification protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; and, for a tower located within a public right-of-way, and for a base station, it protrudes from the edge of the structure more than 6 feet; (iii) the modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; (iv) the modification entails any excavation or deployment outside the current site of the tower or base station; (v) the modification would defeat the existing concealment elements of the tower or base station; or (vi) the modification does not comply with conditions associated with the prior approval of construction or modification of the tower or base station (provided that this limitation does not apply to any modification that is non-compliant only in a manner that does not exceed the thresholds identified in (i)-(iv) preceding above). As used in this definition, the term “site” means: for towers other than towers in a public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and for other eligible support structures: further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

~~Tower, communications~~ refers to ~~a support structure~~ a structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities.

Tower, guyed means a monopole or lattice tower support structure that is secured and stabilized by diagonal cables (guy wires) anchored to the ground or other surface.

Tower, lattice means a support structure that is self-supporting with multiple legs and cross-bracing of structural steel.

~~Tower, monopole~~ means a support structure consisting of a single pole, constructed without any guy wires and ground anchors.

Tower, self-supporting means a support structure that is self-supporting with a single shaft of wood, steel or concrete and antennas or other communications facilities at the top. Structures commonly referred to as “monopoles” are included in this definition.

Transmission equipment means equipment that facilitates transmission for any FCC-licensed or authorized wireless communications service, including, but not limited to antennas, radio receivers, coaxial or fiber-optic cable, and regular and backup power supply.

Utility pole, for purposes of Article IX, section 34-1070 et seq. means a structure owned or operated by a public utility, municipality, electric membership corporation, or similar entity, that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, electricity, or to provide street lighting.

~~Wireless communications~~ means any FCC licensed or authorized communications, including personal wireless services, as defined in the Federal Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio

~~(ESMR), and paging, as well as unlicensed wireless services and common carrier wireless exchange access services, and similar services that currently exist or that may in the future be developed. The term does not mean the provision of direct to home satellite services, as defined in Section 303(v) of the Act.~~

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



| | |
|------------------|---|
| Agenda Date: | September 6, 2016 |
| Action Required: | Approval of Ordinance (1 st reading) after Public Hearing |
| Presenter: | Matthew Alfele, NDS Planner |
| Staff Contacts: | Matthew Alfele, NDS Planner/ Brennen Duncan, Asst. City Engineer Lisa Robertson, Chief Deputy City Attorney |
| Title: | Conditional Release of Road Widening, Drainage, and Public Access Easements to Accommodate Retail Development at 1200 Emmet Street |

Background: Capital One, N.A. is the current owner of a vacant parcel of land at the northeastern corner of the intersection of Barracks Road and Emmet Street (the “Property”). The Contract Purchaser of the Property (CA Land Holdings, LLC, represented by local developer Alan Taylor) plans to construct a new retail project on the site (the “Project”), and has submitted a proposed final site plan to NDS for review. NDS is in the process of reviewing the proposed site plan (the “Site Plan”).

According to the Contract Purchaser, a drainage/utility and reservation of right-of-way easement, and two public sidewalk access easements located on the Property are constraining the design of the proposed project, and are affecting its ability to obtain Project financing. A permanent easement given in favor of the City, for drainage structures, road widening and a sidewalk along the Property’s Barracks Road frontage was acquired by the City in 1962, and the sidewalk easements (adjacent to the Property’s Barracks Road and Emmet Street frontages) were granted to the City in 2007.

Discussion:

Item (i): The 1962 easement for public street improvements (including drainage, road widening and sidewalk construction) was reserved when the City conveyed the Property to Wendell Wood, et al. See the attached map, the drawing labeled “1962 Permanent Easement Drawing”.

- *Drainage*--The 1962 permanent easement is not currently in use by the City for public drainage purposes and its abandonment will not affect the City’s stormwater utility system.
- *Road widening/ sidewalk construction*—If the City agrees to vacate 1962 permanent easement, the Contract Purchaser will, in its place, dedicate an area of land along the Barracks Road frontage for public use. As required by the approved Site Plan and upon obtaining title to the Property, the Contract Purchaser will construct certain public improvements along the Barracks Road frontage. Upon completion of construction of the public improvements, those newly constructed facilities would be presented to the City for

acceptance into the City's public system for maintenance.

Item (ii): It is staff's position that the two 2007 sidewalk easements, each thirty-six (36) feet in length, along the Barracks Road and Emmet Street frontages, will not be necessary in light of the Contract Purchaser's stated plans to construct the project in accordance with the proposed final Site Plan (which, as currently submitted, depicts access points for pedestrians or vehicles along each of those frontages).

It is staff's recommendation that Council should approve the requested vacation of the 1962 and 2007 easements conditionally, subject to the Contract Purchaser obtaining title to the Property and dedicating the new right of way area along the Barracks Road frontage to the City, prior to the release of the existing easements. Therefore, the attached Ordinance has been drafted in such a manner that the proposed vacation will not take effect until the Site Plan incorporating the new right of way area has been approved and the new right of way area has been dedicated to the City.

Community Engagement: A public hearing is required by Virginia Code §15.2-1800(B), in order to give the public an opportunity to comment on the proposed conveyance of a property interest. Notice of such public hearing was advertised in the local newspaper at least 7 days in advance of the public hearing.

Budgetary Impact: Funding for certain public improvements in the Barracks Road/Emmet Street intersection, including an additional turn lane, is to be determined and will be subject to Council approval at a later date.

Recommendation: Staff recommends approval of the ordinance to release the above-referenced existing easements with the condition that the City will not allow the recordation of any deed(s) for the vacation of the 1962 or 2007 easements along Barracks Road and Emmet Street, unless and until the Property Owner, CA Land Holdings LLC, or its successor(s) in interest, dedicates a sufficient area of right of way to allow for certain improvements to be made to the Barracks Road/Emmet Street intersection, including but not limited to, an additional turn lane.

Attachments:

Request Letter from Mary Katherine McGetrick, Esq., attorney for CA Land Holdings, LLC

Note: the Request Letter mentions that there are other easements that the Contract Purchaser desires the City to modify or vacate; however, the details of those proposed modifications/ vacations remain under review by staff and the attorneys for the City and the Contract Purchaser. Those items will come to you as separate items for public hearing and action, at a later date.

Proposed Ordinance

Escrow Agreement

Drawings showing the 1962 and 2007 Easements

WILLIAMS MULLEN

Direct Dial: 804.420.6921
mkmcgetrick@williamsmullen.com

July 19, 2016

BY EMAIL AND REGULAR MAIL

Ms. Barbara Ronan
Paralegal
City of Charlottesville Attorney's Office
605 E. Main Street
Charlottesville, Virginia 22902
ronan@charlottesville.org

Re: Right of Way located at 1200 Emmet Street (the "Property"), at the intersection of Emmet Street and Barracks Road, Charlottesville, Virginia

Dear Barbara:

Thank you for taking the time to meet with Alan Taylor and me last Thursday in your office. As a follow up to that meeting, we request, on behalf of CA Land Holdings, LLC, as contract purchaser of the Property, that City Council pass an ordinance approving the following actions by the City:

1. Termination of the permanent easement for construction, maintenance and repair of necessary drainage structures and fill and/or slope for street widening and the construction of a sidewalk along the street line as set forth in that certain deed dated September 28, 1962 and recorded in Deed Book 243, page 250; and

2. Termination of the public sidewalk easement and trail easement as set forth in that certain deed dated November 5, 2007 and recorded in Deed Book 1172, page 164.

In consideration of the termination of the easements set forth above (the "Existing Easements"), CA Land Holdings will cause the conveyance of:

1. A right of way easement in favor of the City as shown on the enclosed exhibit prepared by Bohler Engineering dated June 27, 2016 (the "Exhibit"), in order to allow for construction of new intersection improvements at the Emmet Street and Barracks Road intersection; and

2. A Deed of Dedication to the City conveying a new 8' pedestrian and bicycle trail along Meadowbrook Road as shown on the Exhibit, in order to allow for construction of new trail improvements.

CA Land Holdings intends to purchase the Property upon receipt of all approvals from the City for its intended retail development, including, but not limited to, site plan approval (the "Approvals"). The termination of the Existing Easements, in exchange for the grant of the new right of way easement and deed of dedication to the City, is necessary in order for CA Land

WILLIAMS MULLEN

July 19, 2016

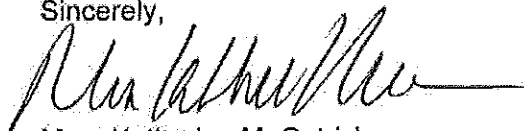
Page 2

Holdings to obtain the Approvals. Therefore, we request that the form of the four (4) documents referenced above, each of which is attached hereto for review, be approved by the City, signed by both parties and placed into escrow with the City Attorney's Office, to be released and recorded upon receipt of the Approvals and transfer of the Property to CA Land Holdings, or its affiliate created to take title to the Property.

As we discussed in our meeting, this is a unique opportunity to dramatically improve the operation of traffic at the intersection of Emmet Street and Barracks Road, which has long been an issue for City residents and surrounding property owners. Since an affiliate of CA Land Holdings is also developing the property on the other side of Barracks Road, with the execution of the attached documents, the intersection can be widened with minimal impact to either project, but with maximum improvement to the safety and utility of the intersection.

If you need any further documentation or details about the project or the proposed easements or dedications in order to draft the proposed ordinance, please do not hesitate to give me or Alan a call. We look forward to working with the City to bring these improvements to fruition.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Katherine McGetrick", with a long horizontal flourish extending to the right.

Mary Katherine McGetrick

cc: Alan R. Taylor

31656129_1.docx

**AN ORDINANCE
AUTHORIZING THE RELEASE OF CERTAIN PUBLIC EASEMENTS,
ACROSS PROPERTY AT THE CORNER OF EMMET STREET AND BARRACKS ROAD**

WHEREAS, CA Land Holdings, LLC is the Contract Purchaser of vacant land situated at the northeastern corner of the intersection of Barracks Road and Emmet Street, designated on City Tax Map 40 as Parcel 2.1 (the “Property”); and

WHEREAS, said Contract Purchaser has requested the vacation and release by the City of three (3) recorded easements that cross the Property, in order to accommodate construction of a retail project on the Property, said easements being described as follows: **(i)** Two “public sidewalk access easements”, each thirty-six (36) feet in length: one along Barracks Road and the other along Emmet Street, shown within a deed dated November 5, 2007, of record in the aforesaid Clerk’s Office in Deed Book 1172, Page 164, and **(ii)** that certain permanent easement in favor of the City, dated September 28, 1962 and recorded in Deed Book 243, page 250 in the Clerk’s Office of the Circuit Court of the City of Charlottesville (collectively, these three easements are hereinafter referred to as the “Subject Easements”); and

WHEREAS, the Contract Purchaser has represented that, in consideration of the release and vacation of the Subject Easements, it will dedicate right of way for public use, as set forth within a proposed Escrow Agreement presented to City Council this same date, and it will construct certain public improvements and provide site access, as part of its construction of a development project on the subject Property; and

WHEREAS, the Director of NDS has no objection to the release of the Subject Easements, based on: (i) the Contract Purchaser’s representations within its proposed final site plan, that the design of its intended project includes pedestrian access to the Property from the Barracks Road and Emmet Street public rights-of-way, and (ii) the Contract Purchaser’s agreements set forth within the provisions of the proposed Escrow Agreement;

WHEREAS, in accordance with Virginia Code Sec. 15.2-1800(B), a public hearing has been conducted by City Council, giving the public an opportunity to comment on the proposed vacation and release of the Subject Easements; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that: **(i)** the proposed vacation and release of the Subject Easements is hereby approved, conditioned upon compliance with the terms and conditions set forth within the Escrow Agreement, which Escrow Agreement is also hereby approved; and **(ii)** the City Manager is hereby authorized to sign the Escrow Agreement as the agent of City Council; and **(iii)** Director of Neighborhood Development Services is authorized to enter into a written development agreement (“Development Agreement”) with the Contract Purchaser, or its successor(s), specifying the timing of the dedication of right-of-way for Barracks Road and the completion of public street improvements, including pedestrian access to the Property from Barracks Road and Emmet Street, in relation to the establishment of the Contract Purchaser’s development project, and **(iv)** the City’s Mayor is hereby authorized to execute one or more deeds, in such form(s) as may be approved by the City Attorney, for the vacation and release of the Subject Easements as contemplated within this ordinance, provided, however, that such deed(s) shall be held by the City Attorney, and shall not be delivered to the Contract Purchaser, any Property Owner, or their successor(s) in interest, nor shall any such deed(s) be recorded in the City’s land records, except in accordance with the Escrow Agreement.

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the “**Agreement**”) is entered into this ___ day of _____, 2016 by and among BARRACKS ROW, LLC, a Virginia limited liability company (“**Barracks**”); 1134 EMMET STREET, LLC, a Virginia limited liability company (“**Emmet**”); CITY OF CHARLOTTESVILLE, a political subdivision of the Commonwealth of Virginia (the “**City**”); and the Escrow Agent (as defined herein). The establishment of this escrow and the execution of this Agreement, as well as the execution and delivery of the ROW Deed of Release and the Easement Vacation (each as defined herein) have been approved by City Council, following a public hearing noticed and conducted in accordance with law, by ordinance adopted on September ___, 2016 (the “**City Council Ordinance**”).

RECITALS

A. CA Land Holdings, LLC, an affiliate of Barracks, has entered into that certain Purchase and Sale Agreement dated March 3, 2016, (as amended, the “**Barracks Purchase Agreement**”) for certain real property located in the City of Charlottesville, Virginia and known as 1200 Emmet Street (the “**Retail Property**”), which Barracks intends to develop as a retail shopping center (the “**Project**”).

B. Emmet owns certain real property located at 1170 Emmet Street which is the subject of that certain Shopping Center Ground Lease dated December 30, 2015 (the “**CVS Lease**”) to CVS 1556 VA, L.L.C. (the “**Tenant**”) for development and use as a CVS pharmacy store (the “**CVS Property**”).

C. Barracks and the Tenant desire to make certain improvements to the Retail Property and the CVS Property, respectively, and the approval of said improvements requires review and approval by the City of a final site plan for each project, in addition to other approvals. As part of the approval process for Project, Barracks has requested the vacation and release by the City of a certain permanent public easement across the Retail Property, and the City has indicated that, in consideration for such vacation and release, the City must obtain dedicated right-of-way, of an equivalent area, in return, and therefore (i) Barracks has agreed to dedicate a certain portion of the Retail Property to the City for public right of way purposes along Barracks Road (the “**Barracks ROW Dedication**”), and (ii) Emmet has agreed to dedicate a certain portion of the CVS Property to the City for public right of way purposes, which is of benefit to Emmet because it shifts a required building setback line in a manner favorable to Emmet’s development plan (the “**Emmet ROW Dedication**”); and all parties to this Escrow Agreement have agreed that, together, the Barracks ROW Dedication and the Emmet ROW Dedication shall provide the City an area of dedicated public street right-of-way which, at minimum, equals the area (square footage) available to the City within the permanent easement referenced in paragraph D, following below.

D. Barracks and Emmet, as fee owner of the CVS Property and with consent of Tenant, each intend to execute a deed of dedication to the City for the Barracks ROW Dedication and the Emmet ROW Dedication on each respective property (each, a “**Dedication Deed**”), and place each Dedication Deed into escrow with the Charlottesville City Attorney’s Office (the

“**Escrow Agent**”). The City intends to execute a deed of release of that certain permanent easement in favor of the City dated September 28, 1962 and recorded in Deed Book 243, page 250 in the Clerk’s Office of the Circuit Court of the City of Charlottesville, Virginia (the “**ROW Deed of Release**”), and place the ROW Deed of Release into escrow with the Escrow Agent. The form of such deeds shall be approved by the Office of the City Attorney in advance of execution.

E. Barracks, Emmet and the City shall execute and deliver, as appropriate, the Dedication Deeds necessary to accomplish the Emmet ROW Dedication and the Barracks ROW Dedication and the ROW Deed of Release, to Escrow Agent to be held in escrow pending the satisfaction of the conditions of this Agreement, or termination of this Agreement as described herein (collectively, the “**Escrow Documents**”). The Escrow Documents will be held in escrow and shall only be released and recorded pursuant to the terms of this Agreement.

AGREEMENT

In consideration of the premises and the mutual covenants contained in this Agreement, the parties hereby incorporate the above recitals into this Agreement and agree for themselves, their successors and assigns as follows:

1. **Establishment of Escrow.** Within thirty (30) days after the date of full execution of this Agreement, Barracks, Emmet and the City will each deliver to Escrow Agent the original Escrow Documents, fully signed and notarized. Escrow Agent shall hold the Escrow Documents in accordance with the terms of this Agreement.

2. **Release of Escrow Documents.** Upon the satisfaction of all the following conditions, and satisfaction of all such conditions has been verified by both the City Engineer and the Office of the City Attorney, the Escrow Documents shall be released by Escrow Agent to Barracks, its attorney or title company for recordation (at the sole expense of Barracks):

(i) The Project shall have obtained: (a) final zoning and site plan approvals from the City, including Entrance Corridor approval, Architectural Review approval, Critical Slopes and Fill in the Flood Plain waivers, and any special use permit required for the Project, and (b) approved Stormwater management and erosion and sediment control plans and land disturbing permits (collectively, the “**Approvals**”);

(ii) Barracks shall own fee simple title to the Retail Property;

(iii) The bonding requirements of the city’s water protection ordinance and zoning ordinance (Charlottesville City Code, Chapters 10 and 34, respectively) shall have been satisfied; and

(iv) The Tenant shall have executed the Dedication Deed for the Emmet ROW Dedication.

Upon release, the Escrow Documents shall be recorded within two (2) business days in the following order:

1. Dedication Deed for the Emmet ROW Dedication;
2. Dedication Deed for the Barracks ROW Dedication; and
3. The ROW Deed of Release.

In the event that the conditions set forth in this Section 2 have not been satisfied within twenty-four (24) months after the date of the City Council Ordinance, then this Agreement shall terminate and the Escrow Agent shall return the Escrow Documents to the party which executed such documents (i.e. the Dedication Deeds shall be returned to Barracks and Emmet, as applicable, and the ROW Deed of Release shall be returned to the City).

3. **Resignation of Escrow Agent; Dispute.**

(a) The Escrow Agent shall have the right to resign at any time by giving thirty (30) calendar days written notice of such resignation to the Parties specifying the effective date of such resignation or termination. Within thirty (30) calendar days after receiving the aforesaid notice, Barracks, Emmet and the City agree to jointly appoint a successor escrow agent to which the Escrow Agent shall distribute the property then held hereunder. If a successor escrow agent has not been appointed and has not accepted such appointment by the end of such thirty (30) calendar day period, the Escrow Agent may apply to a court of competent jurisdiction for the appointment of a successor escrow agent. Upon delivery of all of the Escrow Documents pursuant to the terms of this Agreement to the successor escrow agent, the Escrow Agent shall thereafter be discharged from any further obligations hereunder.

(b) In the event that (i) any dispute shall arise between the Parties with respect to the disposition or disbursement of any of the documents held hereunder or (ii) the Escrow Agent shall be uncertain as to how to proceed in a situation not explicitly addressed by the terms of this Agreement whether because of conflicting demands by the other parties hereto or otherwise, the Escrow Agent, at its option, shall be permitted to retain the Escrow Documents until the Escrow Agent (x) receives a final non-appealable order of a court of competent jurisdiction or a final non-appealable arbitration decision directing delivery of the Escrow Documents, (y) receives a written agreement executed by each of the Parties involved in such disagreement or dispute directing delivery of the Escrow Documents, in which event the Escrow Agent shall be authorized to disburse the Escrow Documents in accordance with such final court order, arbitration decision, or agreement, or (z) interpleads all of the assets held hereunder into a court of competent jurisdiction, and thereafter the Escrow Agent shall be fully relieved from any and all liability or obligation with respect to such interpleaded assets and shall be entitled to recover attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. The Escrow Agent shall be entitled to act on any such agreement, court order, or arbitration decision without further question, inquiry, or consent.

4. **Notices.** Any notices required or permitted to be given under the terms of this Agreement shall be considered properly made if sent by (i) certified or registered United States

mail, return receipt requested, postage prepaid, (ii) recognized overnight courier, such as Federal Express, or (iii) electronic mail to the parties at the following addresses:

if to Barracks: Barracks Row, LLC
455 Second Street SE, 5th Floor
Charlottesville, VA 22902
Attn. Alan R. Taylor, Jr.
alan@riverbenddev.com

With a copy to: Williams Mullen P.C.
200 S. 10th Street, 16th floor
Richmond, VA 23219
Attn. Mary Katherine McGetrick, Esq.
mkmcgetrick@williamsmullen.com

if to Emmet: 1134 Emmet, LLC
455 Second Street SE, 5th Floor
Charlottesville, VA 22902
Attn: Andrew J. Dondero
andy.dondero@redlightmanagement.com

With a copy to: Williams Mullen P.C.
200 S. 10th Street, 16th floor
Richmond, VA 23219
Attn: Philip H. Goodpasture, Esq.
pgoodpasture@williamsmullen.com

If to the City: City of Charlottesville
Department of Neighborhood Development Services
Alex Ikefuna, Director
P.O. Box 911, Charlottesville, VA 22902

if to Escrow Agent: Charlottesville City Attorney's Office
P.O. Box 911
Charlottesville, VA 22902
Attn: Lisa Robertson
robertsonl@charlottesville.org

5. **Controlling Law.** This Agreement has been entered into under the laws of the Commonwealth of Virginia, and those laws shall control the interpretation of its terms.

6. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, to their respective legal representative, assigns and successors in interest.

7. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BARRACKS ROW, LLC

By: River Bend Management, Inc., its Manager

By: _____

Name: _____

Title: _____

1134 EMMET STREET, LLC

By: River Bend Management, Inc., its Manager

By: _____

Name: _____

Title: _____

CITY OF CHARLOTTESVILLE

By: _____

Name: _____

Title: _____

ESCROW AGENT:

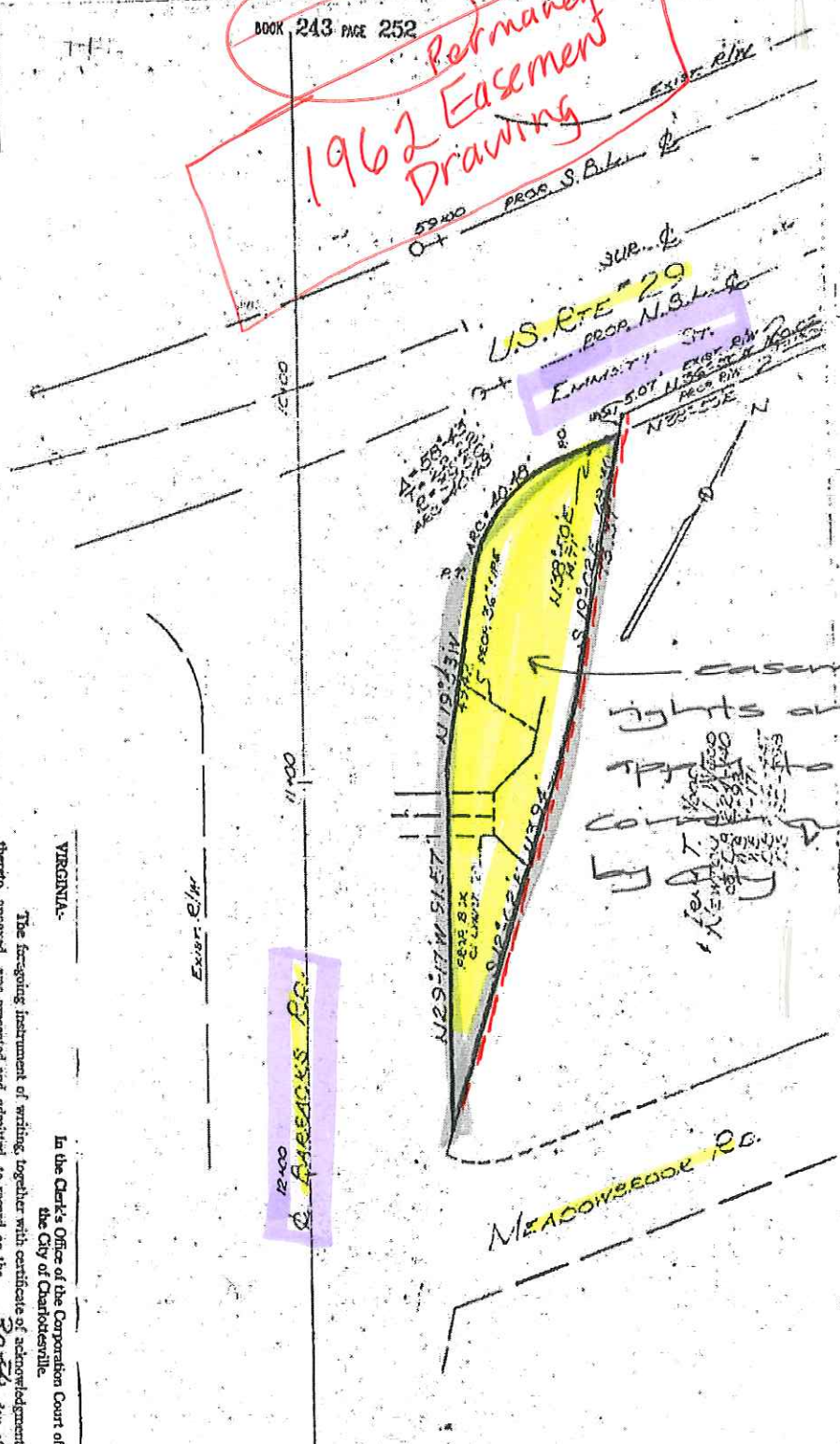
**CHARLOTTESVILLE
CITY ATTORNEY'S OFFICE**

By: _____

Name: Lisa Robertson

Title: Deputy City Attorney

1962 Permanent Easement Drawing



easement rights only apply to small parcels contained by...

VIRGINIA
The foregoing instrument of writing, together with certificate of acknowledgment thereto annexed, was presented and admitted to record on the 30th day of July, 1963, at 2:15 o'clock, P. M.
T. Street, Clerk

PLAT SHOWING PARCEL OF LAND, OUTLINED IN ORANGE, TO BE ACQUIRED BY NEWTON J. WOOD ET AL FROM THE CITY OF CHARLOTTESVILLE

ENGINEERING DEPARTMENT
CITY OF CHARLOTTESVILLE, VA.
JULY 10, 1962
SCALE 1"=25'

2007 Sidewalk Easement

**EMMET STREET
U.S. ROUTE 29**

PLAT NORTH
DB 248 PG 551

CENTERLINE PER VDOT PROJECT (85' R/W)
#0029-104-101-C501 SHEET 8

N 38°50'00" E 177.78' 36.00' IPS

FOR CONTINUATION SEE SHEET 2 OF 3

113.81' (TIE)
N 51°10'00" W 1.50'

PUBLIC SIDEWALK ACCESS ESM'T
(HEREBY DEDICATED TO THE
CITY OF CHARLOTTESVILLE)

27.97' (TIE)
S 51°10'00" E 1.50'

LOT 3A LOT 3B
WOOD AND WOOD
LAND CO., INC.
DB 302 PG 55

LOT 1

LOT 2
LLOYD F.
WOOD,
EST.
DB 248 PG 551

PID 40002200
GAD, LLC
DB 853 PG 22

PUBLIC SIDEWALK ACCESS ESM'T
(HEREBY DEDICATED TO THE
CITY OF CHARLOTTESVILLE)

ZONE A FLOODPLAIN (SEE NOTE 3)

MEADOW CREEK
(EARTH BOTTOM)

APPROX. LOCATION OF
EX. 20' DRAINAGE ESM'T.
DB 248 PG PG 551

N 40°02'01" E 248.61'

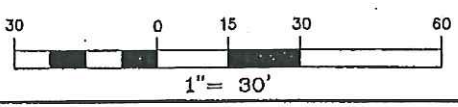
15.00' (TIE)

S 40°02'01" W 261.58' IRF

MEADOWBROOK ROAD
(30' R/W)

N 40°02'01" E 156.96' IRF

LOT A LOT B
MEADOWBROOK HILLS
DB 229 PG 424
DB 987 PG 719



DATE: OCTOBER 24, 2007

3 OF 3

BC Consultants
Planners • Engineers • Surveyors
Landscape Architects
43 West Jubal Early Drive
Winchester, VA 22001
(540) 686-0475 (540) 686-1874 (Fax)
www.bcconsultants.com

PLAT SHOWING
15' BICYCLE & PEDESTRIAN EASEMENT
AND
PUBLIC SIDEWALK ACCESS EASEMENT
LOT 1
LLOYD F. WOOD, EST.
DB 248 PG 551
CITY OF CHARLOTTESVILLE, VIRGINIA



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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



| | |
|------------------|---|
| Agenda Date: | September 19, 2016 |
| Action Required: | Approve Appropriation |
| Presenter: | Diane Kuknyo, Director, Department of Social Services |
| Staff Contacts: | Diane Kuknyo, Director, Department of Social Services Laura Morris, Chief of Administration, Department of Social Services |
| Title: | Additional Funding for Social Services Programs - \$94,133.85 |

Background:

The Virginia General Assembly appropriated additional funding to local departments of social services to be used for staffing and operations. The Charlottesville Department of Social Services has received \$94,133.85 from this additional funding.

Discussion:

The Charlottesville Department of Social Services plans to use the additional funding for staffing and operations needs including:

Continuing short term temporary staffing and overtime opportunities due to vacancies and overdue benefit programs application processing.

Increasing a Benefit Programs Specialist position from 20 hours to 30 hours per week

Evaluating staff travel needs to meet enhanced monthly client visit requirements.

Providing smart phones for staff who are out of the office frequently to increase their safety and security and exploring other technological needs.

Providing ongoing training opportunities for staff development and engagement.

Alignment with Council Vision Areas and Strategic Plan:

Approval of this agenda item aligns with the City's Mission to provide services that promote an excellent quality of life for everyone in our community and strategic plan goal: 4.3: recruit and cultivate quality employees.

Community Engagement:

Department staff work directly with citizens to provide social services, protect vulnerable children and adults, and promote self sufficiency.

Budgetary Impact:

Funds have been received and will be appropriated into the Social Services Fund. No local funds are required.

Recommendation:

Staff recommend approval and appropriation of these funds.

Alternatives:

Funds that are not appropriated will need to be returned to the Virginia Department of Social Services.

Attachments:

N/A

APPROPRIATION.
Additional Social Services Funding
\$94,133.85.

WHEREAS, The Charlottesville Department of Social Services has received funding in the amount of \$94,133.85 to be used for staffing and operations.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$94,133.85 is hereby appropriated in the following manner:

Revenue – \$94,133.85

Fund: 212 Cost Center: 9900000000 G/L Account: 430080

Expenditures - \$94,133.85

| | | | |
|-----------|-------------------------|---------------------|-------------|
| Fund: 212 | Cost Center: 3301001000 | G/L Account: 530210 | \$10,000.00 |
| Fund: 212 | Cost Center: 3301001000 | G/L Account: 520900 | \$5,000.00 |
| Fund: 212 | Cost Center: 3301005000 | G/L Account: 510030 | \$10,000.00 |
| Fund: 212 | Cost Center: 3301008000 | G/L Account: 510030 | \$10,000.00 |
| Fund: 212 | Cost Center: 3301002000 | G/L Account: 510025 | \$8,000.00 |
| Fund: 212 | Cost Center: 3301005000 | G/L Account: 510060 | \$10,000.00 |
| Fund: 212 | Cost Center: 3301008000 | G/L Account: 510060 | \$10,000.00 |
| Fund: 212 | Cost Center: 3301008000 | G/L Account: 530100 | \$8,279.69 |
| Fund: 212 | Cost Center: 3301001000 | G/L Account: 530670 | \$10,000.00 |
| Fund: 212 | Cost Center: 3301005000 | G/L Account: 525251 | \$2,570.83 |
| Fund: 212 | Cost Center: 3301008000 | G/L Account: 525251 | \$10,283.33 |

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



| | |
|------------------|--|
| Agenda Date: | September 19, 2016 |
| Action Required: | Direction from Council |
| Presenters: | Maurice Jones, City Manager Mike Murphy, Assistant City Manager |
| Staff Contacts: | Maurice Jones, City Manager Mike Murphy, Assistant City Manager |
| Title: | Deer Management Strategies |

Background:

The City Council has discussed the possibility of urban deer management for several years. In 2012 Council entertained a variety of options and determined that community education was appropriate but population control was not necessary. New street signs were erected in neighborhoods with higher deer populations, and educational materials were released in [City Notes](#) and on the [City of Charlottesville website](#). Additionally, staff in Public Works continued to record the number of deer struck in the City annually.

On July 18, 2016, Council heard a presentation from Mr. David Kocka with the Virginia Department of Game and Inland Fisheries on urban deer management. Mr. Kocka mainly discussed measures for the eradication of deer through a variety of lethal measures. Controlled cull by hired professionals, use of the police force, and urban archery are all potential options.

Mr. Kocka recommended clarifying the current ordinance to make it clear whether discharging a bow is legal. Decisions about what to do with the deer and access to land would be up to individual land owners. Mr. Kocka estimated that it would cost \$400-\$500 per deer to hire sharpshooters for a controlled cull.

Discussion:

Staff interacted with a number of communities and groups to provide some basic information to the Council. A summary follows:

Town of Blacksburg, VA

The Town uses trained police sharpshooters in the Police Department to operate the program. They started over 15 years ago when they were receiving damage complaints from citizens and saw a rise in vehicle-deer collisions on Town streets. They worked with a faculty member in wildlife management at Virginia Tech to develop the program. They had a citizen committee, looked at all options and decided the only option was to reduce the herd using trained personnel

in the police department. They believe it is really the only option that works. The program has been very effective at reducing accidents and complaints. They use FT staff from Police as additional duty. 218 deer were killed last year by teams of two officers. Six officers have this additional assignment. They use the town garage to prep the deer and take them to a meat packing plant that participates with hunters for the hungry. Urban archery is allowed but only on 3 acres or more and only certain zoning types.

City of Lynchburg, VA

They use trained police sharpshooters in the Police Department to operate the program. They started 14 years ago when they were receiving damage complaints from citizens and saw a rise in vehicle-deer collisions. According to the City, the program has been effective at reducing accidents and complaints. They use staff from the Police Department. They use a large cooler to store deer until they can be transported for processing and donated to hunters for the hungry. Urban archery is allowed but not within 100 yards of a dwelling and several other considerations.

City of Fairfax, VA

They evaluated that in their densely populated community, the use of archers and/or police sharpshooters posed significant safety considerations. They participated in a sterilization project with White Buffalo, INC., a nonprofit research organization dedicated to conserving ecosystems through wildlife population control, over a three year period of time. The program had a lot of scrutiny from the public and media but was generally believed by officials to be effective. They received grant support so there was less impact on cost to Fairfax. The program does require law enforcement participation and there were personnel costs involved. The Police Chief generally thought the project went smoothly. He believes the vendor was good to work with and that local law enforcement had the appropriate amount of involvement and control. A summary report from White Buffalo is shared as an Attachment.

City of Harrisonburg, VA

They used a population management strategy supervised by the Police Department for 3 to 4 years and it has been the same length of time since it was used. The program was a response to documented concern with traffic accidents. They used Police personnel from SWAT in a controlled kill on the golf course at night. No real costs other than personnel time and equipment. They engaged in a relationship with Hunters for the Hungry. They allow urban archery with limitations but it is not commonly used by their residents.

The Humane Society of the United States

Their staff emphasized the importance of interacting with the community prior to a decision. They make a clear delineation between any biological impacts of deer population size and what societal tolerance may be. An accurate assessment should be done to define the problem and the scope. They recommend conducting a resident survey, assessing what kind of damage has occurred, where, and the number of complaints. They believe in site specific mitigation, encouraging tolerance and co-habitation. They believe that better educating people is the most fiscally responsible decision government can make. Their staff could lead workshops and train others to do so. They promote non-lethal interventions including surgical procedures and sterilization via vaccine. They believe both of these interventions require research permits and a partner in the State of Virginia. Interventions require a minimum 5-6 year commitment with results evident by year 3-4. Regardless of strategy and lethality they believe if you stop the

intervention the community can expect a big rebound effect in population. They would be happy to advise on a feasibility study.

Staff also corresponded with Wildlife Rescue Inc. and White Buffalo Inc. to gather information. Wildlife Rescue directed staff to White Buffalo and the Humane Society of the United States. White Buffalo is engaged with a sterilization project on Staten Island at this time and will be able to engage with more information in the future.

The staff is seeking direction from Council on several fronts:

- Whether additional public input, beyond the previous Town Hall discussions and the scheduled public hearing, is needed and to what degree. Every organization we spoke with on this subject emphasized the importance of having broad public support of whatever option the City chooses to pursue.
- Whether we should establish an urban archery ordinance, which would give private property owners the authority to hunt on their property or allow others to hunt on their property.
- Whether to allow the police department or a private organization to hunt deer on public land within the City.
- Whether to further investigate sterilization as an option for consideration. At this point staff cannot provide an accurate cost estimate for this option. The cost will be dependent on the number of deer sterilized and the cost per sterilization, which is expected to be anywhere between \$500 to \$1,500 per doe.
- Whether Council wants to pursue to hire an wildlife expert to develop an estimate of the deer population in the city.

Alignment with City Council's Vision and Strategic Plan:

This item aligns with Council's vision of a **Smart, Citizen Focused Government** and Strategic Plan Goal #2 to **Be a Safe, Equitable, Beautiful and Thriving Community**.

Community Engagement:

This is a frequent topic among some neighborhood associations and at Our Town meetings. A public hearing has been scheduled to solicit resident input.

Budgetary Impact:

Budgetary impact would be determined based on any future action taken by the Council and varies based on the intervention.

Alternatives:

Council may elect to instruct staff to pursue additional information on particular interventions or take no further action at this time.

Attachments:

Lynchburg - Additional Information
White Buffalo, Inc. Report from Fairfax
Communities Exchange Bullets for Birth Control Article
Deer Fertility Control via Surgical Sterilization
Deer Management Plan
Deer PZP Fact Sheet
Using PZP to manage WTD populations
The Plan from Humane Society
Lyme disease data for Charlottesville

Mission Statement: To provide a safe, professional service to the citizens of Lynchburg to help reduce the number of deer related issues and conflicts, while feeding needy people in our area.

Challenge: Lynchburg City has excellent habitat for deer to thrive. Additionally, Lynchburg does not allow general hunting with firearms for safety reasons, and with a strict dog leash law, the deer have adapted to the city life. Deer are seen at all times of the day and night traveling and feeding in and around lawns, parks, roadways, etc. The deer have adapted to people and their daily routines and have become somewhat of a nuisance. Given the habitat, conditions, and growing deer population this has created many conflicts with citizens that requires attention.

Definitions:

Bow Permit- A special written hunting permit, issued by the Chief of Animal Control, that allows for an arrow to be discharged from a bow for the purposes of culling deer. Bow permits are issued to the Landowner only and must meet safety requirements.

Hunt (shotgun) Permit- A special written hunting permit issued by the Chief of Animal Control, that allows for a shotgun to be discharged and/or an arrow to be discharged from a bow for the purposes of culling deer. Hunt permits are issued to the Landowner only and must meet safety requirements and have at least 25 acres of contiguous property.

Kill Permit- A special written hunting permit, issued by the Chief of Animal Control, that allows a hunter to harvest deer under special regulations outside of the normal hunting season. This permit allows a hunter to kill deer outside of the normal state requirements for hunting, (i.e. does not normally require a state license, big game tags, or use daily bag limits.) Landowner must show deer damage to commercial crops or residential plants to have a Kill Permit issued. (Currently residential properties are not issued kill permits in Lynchburg City for bow hunting, See Bow permits)

Cull- A term used to describe indiscriminate killing of deer, which can be due to a number of reasons.(i.e nuisance, property damage, hazard, etc.)

Wildlife Specialist- Performs responsible service work conducting and coordinating the City's response to deer management issues, by means of culling deer with rifles.

History:

-1991 Lynchburg City Council created a Wildlife Study Commission and charged it with studying deer-related problems in the city and recommending solutions. There had been an increasing number of deer related car accidents and property damage.

-January 28, 1992, City Council accepts recommendations and hires a part time wildlife management specialist to cull deer on both public and private property (with the landowner's permission)

-1996, A second part-time wildlife management specialist is hired, and the "Hunters for the Hungry" Program provided a portable cooler to allow temporary storage until transport to packing facility.

-1998, State law is changed so that, temporarily, kill permits can no longer be used to control deer causing damage on non-commercial properties.

-July 2000, Lynchburg obtains its first permit to cull deer under DPOP instead of kill permits.

-2002, Lynchburg begins to implement one of the state's first early urban archery programs.

Lynchburg revises its laws so that: (a) landowners who obtain permits from the city to hunt on

their property and (b) bow hunting can take place on contiguous parcels that make up 5 acres or more.

-July 2003, State law was changed so that kill permits may once again be used on non-commercial properties to control deer causing damage.

-2004 First year of special early & late Urban Archery seasons to cull more does.

-2009 Bow Permits and Hunt Permits were now issued for residential deer damage in place of kill permits

-2013 Animal Control purchased an 8 X 10 walk in cooler to keep deer for donations and for hunters for the hungry.

-2016 The Lynchburg Urban Archery program is going online!!! The Police Department is revamping our wildlife data base program and going to an online permit application making it easier for landowners in the city limits to get their permit via a secure email.

Wildlife Management Team:

Animal Control currently employs 2 part-time Wildlife Specialists that work 2-3 nights per week, culling deer in the city to reduce numbers and to change deer patterns using special kill permit. The team is managed by the Chief of Animal Control, who documents and reports all data relating to this service. The wildlife program is in compliance with the Department of Game and Inland Fisheries MOU. (Click [HERE](#)) The deer that are taken will be donated to landowners and needy people through the “Hunters for the Hungry” program when possible. If you live in Lynchburg city, are experiencing deer related problems, and would like to take advantage of this free service please call 434-455-6105 or email Geoffrey.jones@lynchburgva.gov

Urban Archery Hunting Program:

This program provides a recreation for citizens while supplementing the work that the Wildlife Team is doing. Additionally it provides Lynchburg City landowners who have property that may be unsafe for discharging a rifle, to still have deer taken from their property. This program allows hunting in the city with archery equipment that complies with the VADGIF hunting seasons and regulations (Click [HERE](#)). Landowners who wish to have their property hunted may apply for a Bow Permit (less than 25 acres) or a Hunt Permit (25 acres or more) by clicking (Click [HERE](#)). All permits must be renewed by the property owner on a yearly basis. Owners are responsible for the hunters they allow on their property.

Local Urban Hunting Ordinance:

Lynchburg City Code Section 27-67.3 (click [HERE](#)) allows you to be issued a permit to hunt in compliance with laws of the City of Lynchburg and the Virginia Department of Game and Inland Fisheries (VDGIF) regulations. VDGIF regulations /state code includes, but is not limited to the following:

1. All hunter education and hunting license requirements must be met and maintained.
2. All daily and seasonal bags limits as well as big game checking requirements must be adhered to.

NOTE: For more information, please see the VDGIF "Hunting and Trapping in Virginia" pamphlet or visit their website at www.huntfishva.com for specific rules and regulations.

In addition, the following special regulations must be adhered to:

1. Bow and arrow may be used for taking deer only.

2. No person shall discharge a bow from over or across any street, sidewalk, alley, roadway, or public land or public place within the city limits or toward any building or dwelling in such a manner that an arrow may strike it.
3. Hunting must be from an elevated position at least 12 feet above the ground.
4. Any person(s) engaging in discharging a bow and arrow at all times shall have in their possession written permission from the landowner and a copy of this permit to discharge such a weapon on the premises.
5. All hunting must be done in compliance with the laws of the Commonwealth of Virginia and the rules and regulations of VDGIF.
6. It is unlawful to carry firearms while hunting with a bow and arrow.
7. No dogs may be used to hunt deer.
8. The landowner agrees to allow the City's Wildlife Management Specialist to cull deer under the conditions of the (MOU) granted to the City by VDGIF if the Chief Animal Warden determines it safe.
9. This permit must be renewed on a yearly basis.

This authorization will be considered valid for Special Urban Archery Season for the hunting season.

Lynchburg City Code Section 27-67.1, allows you to be issued a permit to hunt in compliance with laws of the City of Lynchburg and the Department of Game and Inland Fisheries (VDGIF) regulations. VDGIF regulations /state code includes, but is not limited to the following.

1. All hunter education and hunting licenses requirements must be meet and maintained.
2. All daily and seasonal bags limits as well as big game checking requirements must be adhered to.
3. Shotgun may only be used during firearms season.

*** NOTE: For more information, please see the VDGIF "Hunting and Trapping in Virginia" pamphlet or visit their website at www.huntfishva.com for specific rules and regulations.**

In addition, the following special regulations must be adhered to:

1. Only 00 or #4 buckshot may be used, or if using bow and arrow, arrow head must be at least 7/8" wide and the bow used must be capable of propelling an arrow at least 125 yards.
2. Shotgun or bow and arrow may be used for taking deer only.
3. Hunting must be from an elevated position at least 12 feet above the ground.
4. No person shall discharge a shotgun within 100 yards of any building, dwelling, street, sidewalk, alley, roadway, public land or public place within the city limits.
5. The property must be posted with signs reading POSTED, NO HUNTING at conspicuous locations.
6. All hunting must be done in compliance with the laws of the Commonwealth of Virginia and the rules and regulations of VDGIF.
7. No dogs may be used to hunt deer.
8. Upon issuance of this hunt permit, the landowner agrees to allow the City's Wildlife Management Specialist to cull deer under the conditions of the (MOU) granted to the City by VDGIF if the Chief Animal Warden determines it safe.
9. This permit will be renewed on a yearly basis.



White Buffalo Inc.
Conserving Native Species and Ecosystems

**YEAR THREE
SUMMARY REPORT**

2015 Deer Research Program

City of Fairfax, Virginia

Submitted by

Dr. Anthony J. DeNicola

White Buffalo Inc.

7 January 2016



INTRODUCTION

The City of Fairfax is located in northern Virginia, in the suburbs of Washington, DC, and contains approximately 6.3 mile². The City represents one of the most challenging situations for deer managers. The community is nearing the point of being “built out” (2010 census: 22,525 people, 8,347 households) with most of its land area covered by single family homes surrounded by wooded corridors. This configuration provides excellent deer habitat and at the same time can be restrictive to the implementation of some deer management options. There is no hunting permitted within the community. Given the favorable conditions, the deer population in the area has increased to a level that is incompatible with some local land uses. To date, no management actions have been used to control the deer population. These site characteristics, along with deer approachability, make the City of Fairfax a suitable site to conduct a surgical sterilization research project.

METHODS

Capture

Deer sterilization activities in Year 1 were conducted 31 January - 6 February 2014, every night except 4 February due to weather delays. Year 2 capture efforts were conducted 26 - 31 January 2015, every night except 29 January due to weather delays. Year 3 capture efforts were conducted 14-16 December 2015. We followed the operations protocol outlined in the proposal, contract, and Virginia Department of Game and Inland Fisheries (VDGIF) scientific collection permit number 050238. Female white-tailed deer of all age classes were immobilized using projectors with 2-ml transmitter darts (Pneu-Dart, Inc., Williamsport, PA, USA) to administer Telazol (4.4 mg/kg) and xylazine hydrochloride (2.2 mg/kg). We approached deer in a vehicle on public roadways and private roadways/properties where permission was granted. A police officer accompanied each capture professional. Once a dart was deployed and 15 minutes elapsed, the deer was located via radio-telemetry. Masks were placed over the eyes, and ophthalmic ointment was applied to prevent ocular desiccation. Deer were transported to the sally port of the Fairfax Police Department where a temporary veterinary surgical sterilization site was located.



Captured females were fitted with VHF radio-collars containing 8-hour mortality sensors to facilitate future capture efforts and assess survival rates. We used radio-collars with a 5-year battery life that are 1/3 the size (150 grams) of traditional deer collars to lessen the physical burden on each deer (Advanced Telemetry Systems, Isanti, MN, USA). All captured deer were fitted with ear tags for individual identification. The back plate of each tag was labeled “Call Before Consumption 860-790-0224.” We also collected data on weight, age, and general health of the deer. Incidentally captured males were tagged at the capture location. All captured animals were administered tolazoline hydrochloride (2.0 mg/kg IV), and released.

Surgical Procedure

All female deer were pre-medicated with flunixin meglumine (1-3 mg/kg IM) and a long-acting antibiotic (Excede 3-6 mg/kg IM). To maintain anesthesia supplemental doses of ketamine hydrochloride (5 mg/kg IV) were given as needed. A routine prepubic ventral midline laparotomy was used to expose the uterine horns and ovaries. We performed bilateral ovariectomies using a combination of clamping, electrocautery and excision for removal of the ovary, and coagulation to prevent hemorrhage. In select cases, the ovarian artery was ligated with 0 PDS suture or a titanium hemostatic clip. We conducted one surgical fallopian tubal ligectomy in Year 1 which was deemed necessary by the veterinarians. Tubal ligectomy is performed in similar fashion to the ovariectomy. However, ovaries were left undisturbed, while the fallopian tubes were ligated using a single titanium hemostatic clip near the insertion site of each uterine horn and a 1-2cm section of each tube was removed with electrocautery. Routine three layer closure of the abdomen was performed to complete the procedure.

Release

All deer were returned proximate to the capture location, in areas with the lowest likelihood of human disturbance during recovery. The reversal agent tolazoline hydrochloride (2.0 mg/kg IV) was administered, and each individual was monitored during recovery.

Population Monitoring (Year 1)

Before initiating capture efforts, a camera survey was conducted to provide a population estimate. We used Moultrie M-880 IR trail cameras (Moultrie Feeders, Alabaster, AL, USA) set



on motion activated single shot with a 5-second delay to optimize capture rates. Due to the dense development and limited wooded corridors, the 1/130 ha camera coverage tested by Jacobson et al. (1997) was used. The study site was broken into 12 quadrants, and the control (Vienna, VA) eight quadrants. One camera was allocated to each quadrant. Public property in each quadrant was scouted for heavily traveled deer trails and pinch points deer were forced to pass through due to natural or man-made barriers. Each camera was elevated 0.6 m, oriented north, and angled 45 degrees to the trail. Because of high human activity in the area, each camera was labeled “EQUIPPED WITH GPS TRACKER: Property of White Buffalo, Inc. (860) 790-0224.” Cameras were run for a test period of 2-days to ensure adequate positioning and then left operational for 30 days before being collected to download the data. We used the same calculation method as Jacobson et al. (1997) to estimate population density and herd demographics. Also, we used the camera data collected 7 - 19 February 2014 in Fairfax to estimate the ratio of tagged to untagged females.

Population Monitoring (Year 2)

The same non-baited survey methodology was used in Vienna and Fairfax in Year 2. Also, a baited survey was conducted in Fairfax using the Jacobson et al. (1997) method with 1/130 ha camera coverage. We used bait site camera data collected 1 - 11 February 2015 in Fairfax to estimate the ratio of tagged to untagged females after the capture efforts.

Population Monitoring (Year 3)

A baited survey was conducted in Fairfax using the Jacobson et al. (1997) method with 1/130 ha camera coverage. We also used bait site camera data collected 29 November - 13 December 2015 in Fairfax to estimate the ratio of tagged to untagged females before the capture efforts. We also used a basic accounting approach, given the high percentage capture status, when reviewing camera data and integrating known mortality and dispersal data. We did not continue the camera surveys in Vienna because the first 2 years of camera data were too variable to serve as a baseline or comparison. The initial restriction on the use of bait compromised the value of data collected in the Vienna surveys leaving the research project without a control location that provided scientific value.



RESULTS

Year 1

Capture and Sterilization

We captured 21 deer with remote-injection tranquilizer darts (Table 1). Of the deer captured 18 were females (14 adults and four fawns) and three were males (two yearlings and one fawn). All males captured were misidentified as either female fawns or yearling females. All of the females captured were sterilized via ovariectomy with the exception of one that received a tubal ligation because of reproductive tissue adhesions to the abdominal wall. Females received white ear tags and males received orange. There were no mortalities associated with capture or the surgical procedures one month post-handling.

Table 1. Deer capture data 31 January – 6 February 2014 in Fairfax City, VA.

| Ear Tag | Frequency | Sex | Age | Sterilization | Dart Location |
|-----------|-----------|-----|-----|---------------|-----------------|
| 1L/1R W | 151.803 | F | 4.5 | OV | Blenheim |
| 2L/2R W | 151.754 | F | 2.5 | OV | Blenheim |
| 3L/3R W | 151.823 | F | 3.5 | OV | Van Dyke |
| 4L/4R W | 151.794 | F | 6.5 | OV L – TL R | Ratcliff |
| 5L/5R W | 151.832 | F | 0.5 | OV | Ratcliff |
| 6L/6R W | 151.763 | F | 3.5 | OV | Plantation Pkwy |
| 7L/7R W | 151.692 | F | 5.5 | OV | Spring Terrace |
| 8L/8R W | 151.734 | F | 2.5 | OV | Spring Terrace |
| 9L/9R W | 151.674 | F | 1.5 | OV | Spring Terrace |
| 10L/10R W | 151.782 | F | 5.5 | OV | Van Dyke |



| | | | | | |
|-----------|---------|---|-----|-----|-----------------------|
| 11L/11R W | 151.703 | F | 1.5 | OV | Van Dyke |
| 12L/12R W | 151.813 | F | 0.5 | OV | Van Dyke |
| 14L/14R W | 151.853 | F | 1.5 | OV | Blenheim |
| 13L/13R W | 151.744 | F | 1.5 | OV | Plantation North Pool |
| 15L/15R W | 151.722 | F | 4.5 | OV | Heritage |
| 16L/16R W | 151.682 | F | 6.5 | OV | Heritage |
| 17L/17R W | 151.713 | F | 0.5 | OV | Old Lee & Queen Anne |
| 18L/18R W | 151.663 | F | 3.5 | OV | Plantation Pkwy Park |
| 7L/8R O | N/A | M | 0.5 | N/A | Blenheim |
| 1L/2R O | N/A | M | 1.5 | N/A | Providence |
| 3L/4R O | N/A | M | 1.5 | N/A | Daniels Run |

Camera Estimates Fairfax

We obtained a total of 5,126 pictures from the twelve camera sites. The population survey conducted from 20 - 30 January 2014 estimated Fairfax to have 91 deer; 6.6% adult males, 40.7% adult females, and 52.7% fawns. The estimated density was 14.4 deer per square mile, and the estimated recruitment rate was 1.29 fawns per female. If a 1:1 male to female birth ratio is assumed, then based on the survey data alone we sterilized ~30.0% of the female population. Analyzing the pictures from 7 - 19 February 2014 (the data after capture ended), the tagged to untagged ratio of females estimated that 30.5% of the females were sterilized.



Camera Estimates Vienna

From the eight camera sites, we obtained a total of 5,359 pictures. The calculations estimated Vienna to have 149 deer; 14.7% adult males, 39.1% adult females, and 46.1% fawns. The estimated density was 28.8 deer per square mile, and the estimated recruitment rate was 1.18 fawns per female.

Year 2

Capture and Sterilization

We captured 20 deer with remote-injection tranquilizer darts (Table 2). Of the deer captured 18 were females (15 adults and three fawns) and two were male fawns. All males captured were misidentified as female fawns. All of the females captured were sterilized via ovariectomy. Females received white ear tags and males received orange. There were no mortalities associated with capture or the surgical procedures.

Table 2. Deer capture data 26 - 31 January 2015 in Fairfax City, VA.

| Ear Tag | Frequency | Sex | Age | Sterilization | Dart Location |
|-----------|-----------|-----|-----|---------------|-----------------------|
| 19L/19R W | 151.773 | F | 2.5 | OV | Pickett |
| 20L/20R W | 150.934 | F | 1.5 | OV | Blenheim |
| 21L/21R W | 150.473 | F | 4.5 | OV | Woodland |
| 22L/22R W | N/A | F | 0.5 | OV | Woodland |
| 23L/23R W | 150.244 | F | 3.5 | OV | Plantation Pkwy |
| 24L/24R W | N/A | F | 0.5 | OV | Plantation Pkwy |
| 25L/25R W | 151.734 | F | 1.5 | OV | Roberts Road |
| 26L/26R W | 150.914 | F | 4.5 | OV | Plantation Pool House |



| | | | | | |
|-----------|---------|---|-----|-----|------------------------|
| 27L/27R W | 150.235 | F | 4.5 | OV | Roberts Road |
| 28L/28R W | 150.256 | F | 1.5 | OV | Eaton Place/Plantation |
| 29L/29R W | 150.483 | F | 1.5 | OV | Oak Place |
| 30L/30R W | 150.463 | F | 0.5 | OV | 5 Chimneys |
| 31L/31R W | 150.453 | F | 2.5 | OV | Plantation Pool House |
| 32L/32R W | N/A | F | 4.5 | OV | Ranger Road |
| 33L/33R W | 150.974 | F | 4.5 | OV | Ranger Road |
| 34L/34R W | N/A | F | 2.5 | OV | Plantation Pool House |
| 35L/35R W | N/A | F | 2.5 | OV | Roberts Road |
| 36L/36R W | N/A | F | 2.5 | OV | 5 Chimneys |
| 5L/6R O | N/A | M | 0.5 | N/A | Roberts Road |
| 9L/10R O | N/A | M | 0.5 | N/A | Mosby Woods |

Camera Estimates Fairfax (Year 2)

We obtained a total of 3,374 pictures from the ten non-baited camera sites. The non-baited survey from 11 - 25 December 2014 estimated Fairfax to have 51 deer; 15.7% adult males, 56.5% adult females, and 27.8% fawns. The estimated density was 8 deer per square mile and the estimated recruitment rate was 0.49 fawns per female. In comparison, we obtained a total of 7,750 photos from the baited camera sites (over twice as many as non-baited). The baited survey estimated Fairfax to have 66 deer; 13.6% adult males, 58.0% adult females, and 28.4% fawns. The estimated density was 10.5 deer per square mile and the estimated recruitment rate was 0.48 fawns per female. Analyzing the pictures from 1 - 11 February 2015 (after capture ended) the tagged to untagged ratio of females estimates 91.3% of the females were sterilized.



Camera Estimates Vienna (Year 2)

We obtained a total of 1,920 pictures from the camera sites. The calculations estimated Vienna to have 76 deer; 22.3% adult males, 37.8% adult females, and 39.9% fawns. The estimated density was 16.5 deer per square mile and the estimated recruitment rate was 1.06 fawns per female.

Year 3

Capture and Sterilization

We captured eight deer with remote-injection tranquilizer darts (Table 3). Of the deer captured seven were females (six adults and one fawn) and one was a male fawn. The male captured was misidentified as a female fawn. All of the females captured were sterilized via ovariectomy. Females received white ear tags and the male received yellow. There was only one mortality associated with capture (i.e., an adult female with a broken leg that was euthanized).

Table 3. Deer capture data 14-16 December 2015 in Fairfax City, VA.

| Ear Tags | Color | Frequency | Sex | Age | Sterilization | Dart Location |
|----------|--------|-----------|-----|-----|---------------|----------------------|
| 37 | White | 151.151 | F | 6.5 | OV | Stafford Drive |
| 38 | White | 150.483 | F | 2.5 | OV | Stafford Drive |
| 39 | White | 151.692 | F | 3.5 | OV | Home Depot - Pickett |
| | | | F | 3.5 | | Home Depot - Pickett |
| 40 | White | | F | 0.5 | OV | Stafford Drive |
| 4 | Yellow | | M | | | Stafford Drive |
| 41 | White | 151.603 | F | 1.5 | OV | Oak Place |
| 42 | White | 151.061 | F | 2.5 | OV | Stafford Drive |



Camera Estimates Fairfax (Year 3)

We obtained a total of 1265 pictures from the 11 baited camera sites. We observed 91% (20 of 22) of the tagged females in photos that were alive and present in the City (#4 and 15 were likely in the City based on telemetry data, and #7, 8, 16, 18, 24, 28, 29, 30, and 35 are dead). The camera survey estimated Fairfax to have 53 deer; 30.6% adult males (16), 56.6% adult females (30), and 13.1% fawns (7). The estimated density was 8.4 deer per square mile (~6 square miles) and the estimated recruitment rate was 0.23 fawns per female. When analyzing the pictures from before capture efforts to assess the tagged to untagged ratio of females we found that 71% of the females were sterilized (22 tagged plus 9 possible untagged females = 31 total; $22/31 = 71\%$). We captured all but possibly two untagged adult females (one at Burrows Road bait site and the other intermittently present between the Presbyterian Way and Main Street bait sites) that were occasionally “present” in the City limits, resulting in 93% (28 tagged and 2 untagged females in the City = $28/30 = 93\%$) of the females tagged and sterilized upon completion of capture efforts on 16 December.

There were three tagged females (#11, 19, and 20) that were not detected in either the camera survey or through telemetry. There also were two tagged females that we found with telemetry, but were in the County during our capture efforts (#13 and 34). An additional tagged female (#33) was captured in photos, but was not in the City during capture efforts; she was ~0.5 miles north of the City in the County on all 3 capture nights. One of the untagged females with 2 fawns that was photographed in the NW corner of the City on the County line (Burrows Road bait site) did not come to the bait site during capture efforts, nor was she observed in the City during spotlighting efforts.

DISCUSSION

In Year 1, the initial population estimate based on observations while spotlighting was consistent with the camera survey results in the City of Fairfax. We initially projected there to be 50-100 deer based on spotlighting efforts, and we then estimated there to be approximately 91 deer with the camera survey. We believed this estimate to be biased slightly high as there was a large group of antlerless deer on the southern boundary that were inaccessible and had limited use of the city based on development patterns in the area. Furthermore, >60% of



females were not observed by the cameras when assessing the tagged to untagged ratio after capture. Therefore, our camera estimate was not as precise as it could have been because of the low detection rate. The low percentage of tagged females captured in the camera images reflected the deficiency of using cameras, or capture methods, without bait. We initially attempted the non-baited camera survey technique because of baiting restrictions coupled with low deer densities in the City of Fairfax.

We had reservations about the accuracy of the non-baited method, so in Year 2 we initiated a small scale research project conducted in conjunction with the Fairfax County Parks Authority comparing baited and unbaited camera surveys. The project showed non-baited surveys produced inconsistent data and yielded a low detection rate of individuals. This result was reflected in the variation of the Vienna data with a lower population in Year 2 yet a consistent fawn recruitment rate and no management action. In contrast, only one of the females captured in Year 1 in Fairfax, that was still alive, was not detected on the initial baited camera survey in Year 2. Therefore, we believe our Year 2 baited camera estimate was much more precise because of the higher detection rate. We only had 1265 photos on cameras this year (Year 3). It was likely due to an earlier start and warm weather that diminished bait leverage. Regardless, we obtained photos of 91% of the females in the City.

At the close of Year 3, we are only aware of two possible adult females that we were not able to capture. We have successfully captured ~93% of the females based on the untagged to tagged ratio calculated from the pre-capture baited camera data, and an accounting of the females captured after the camera data were collected. We are confident in the high percentage capture rate of the female population currently in the City of Fairfax when we include the baited camera survey estimate combined with extensive observational data. This lack of unsterilized females, not accounting for potential immigration, will further reduce the recruitment rate (1.29 in 2014, 0.48 in January 2015, and 0.23 in December 2015) and contribute to potential population decline.

There are clearly females that overlap the City and County, most of which we have captured, but some have not been in the study area during capture operations. Nearly all of the observed untagged females were at bait sites within 400 yards of the City/County line. We will continue to monitor the peripheral immigration and home range overlap to assess the impacts on the local deer abundance.



In Year 1, we expended 7.84 person-hours per acquired darting opportunity. In Year 2, we expended 7.22 person-hours per acquired darting opportunity. Of greater importance, is that we began capture efforts in Year 2 with 30-40% of the females already captured. In Year 3, we expended 7.7 person-hours per acquired darting opportunity. As in Year 2, it is important to note that we began capture efforts in Year 3 with >70% of the females already captured. These data support our previous contention that bait is a critical component in identifying and capturing a high percentage of a population.

There have been nine collared deer mortalities since the start of the project. Six were killed in DVCs, two were shot by hunters just outside of the City in the County, and one died of unknown causes. In Year 1, three female deer died, in Year 2, six female deer died, resulting in an average of ~18% annual mortality. We also could not locate 3 collared females (#11 19, and 20) during extensive searches in the City, nor were any camera images obtained, indicating that they dispersed. If they remain as emigrants this would be a reduction of ~27% in Year 2. This is reasonably aligned with other studies on suburban deer survival rates. We documented a 20% population decline since last year's capture efforts in January 2015 (66 in Year 2 and 53 deer in Year 3). This is consistent with recruitment, immigration/emigration, and mortality rates recorded.

We experienced one mortality this year during the capture process. So over the three years one deer died during handling; a ~2% loss rate (49 total captures). For the third year, there were no complaints filed by members of the public during operations. This clearly demonstrates that these types of research actions are compatible with humaneness standards and human activities in a developed environment. Also, we have trained three local veterinarians, several veterinary technicians, and local support volunteers.

In summary, the use of bait significantly increased our efficiency over the past two years as it does on nearly all research or nontraditional deer management operations, and it will be vital to the future success of this research project. We also will need to continue to use bait for the camera surveys to increase the percentage of the population captured in images and ultimately to provide a more accurate estimate. We will follow the proposal and maintain capture efforts and population monitoring for two more years to fulfill the 5 year requirement of the permit.



ACKNOWLEDGEMENTS

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PRINCIPAL INVESTIGATORS

Dr. Anthony J. DeNicola is President of White Buffalo Inc., a nonprofit research organization dedicated to conserving ecosystems through wildlife population control. He received an M.S. degree from the Yale School of Forestry and Environmental Studies and a Ph.D. from Purdue University. Dr. DeNicola has conducted contraceptive and sterilization projects throughout the United States over the last 23 years. Dr. DeNicola's research interests include ecological approaches to control wildlife damage, control of introduced vertebrate species, and wildlife reproductive control.

Dr. Jeffrey Newman, the owner of Caring Hands Animal Hospital and President of the Virginia Veterinary Medical Association.

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April 21, 2014

Out of Season

Culling abundant deer populations is controversial and ineffective. The HSUS is helping create humane alternatives.

All Animals magazine, May/June 2014



Wildlife contraception is transforming the way humans manage animal populations, replacing bullets with birth control. In the first story of this three-part series, All Animals looks at what pioneering methods like the PZP vaccine mean for white-tailed deer. Future stories will examine the implications for wild horses and African elephants.

by Karen E. Lange



Deer graze at sunset in a park on South Carolina's Fripp Island, where birth control has lowered deer numbers and saved animal lives. Richard Ellis/For The HSUS

Shortly after dawn, two men carrying what look like automatic weapons head toward blinds in the yard of Enid Feinberg, northeast of Baltimore. The SUVs parked in Feinberg's driveway are plastered with bumper stickers expressing outrage at the people who stalk deer in her subdivision, and a sign on the three-car garage warns hunters away. Feinberg has a running feud with a neighbor who bags deer, and she keeps careful watch, through closed-circuit television, on the 14 acres she and partner Lierra Lenhard own: The woods that spill over their property connect to land where the city allows bow hunters to cull; every fall, the two women find deer with arrows in their bodies and festering wounds. Once, Feinberg chased off a camouflage-clad bow hunter she spotted crawling along the fence that borders their backyard. "We're defending our home," she says.

Yet here, at Feinberg and Lenhard's invitation, are Anthony DeNicola, sharpshooter for hire, and his assistant, Charles Evans, dressed in Carhartt and ready to take aim at the deer the women leave corn out for each morning: DeNicola, whose company, White Buffalo Inc., has culled more than 10,000 deer, collecting fees from communities like Greenwich, Conn., and Princeton, N.J. The two men tuck themselves away—DeNicola in a shed and Evans in a truck. Feinberg has put out apples to mask their scent. Volunteers inside the house feed them reports off six TV screens linked to professional grade cameras that can bring objects into focus from up to half a mile away.

Evans and DeNicola are not looking, as hunters often do, for bucks, and they are not using bullets or aiming for the head or heart. Hired for the weekend by the Maryland nonprofit Wildlife Rescue Inc. (of which Feinberg is president), they are searching for does without tags on their ears—ones who have not yet been sterilized. They will hit them in the rumps with radio-transmitter-equipped tranquilizer darts so the deer can be captured for surgery. It's part of an experiment to reduce deer numbers humanely. Within an hour, Evans gets a doe who bolts off Feinberg's property and runs through trees and fields before collapsing. Soon after, DeNicola gets two sisters who head down a power company right-of-way before falling in snow-frosted leaves that carpet the woods.



Tranquilized deer (above) with eyes masked and stomachs shaved await surgery in advocate Enid Feinberg's garage. James Berglie/For The HSUS

Wildlife Rescue volunteers go out in an all-terrain vehicle to pick up the deer on stretchers and transport them to Feinberg and Lenhard's garage. There the three does—pregnant, as almost all healthy does are in February—have their ovaries removed in a procedure perfected by Wisconsin vet Steve Timm over the past six years with DeNicola, a Yale- and Purdue-educated wildlife biologist. Timm performs the surgeries beside Dr. Tamie Haskin of Wildlife Rescue, one of a half dozen vet volunteers he's trained around the country (with their donated time, the cost of each operation drops from about \$1,200 to less than \$500). In 30 minutes—the animals' blood circulation and breathing suffer when they're on their backs for longer—Timm and Haskin slice into each abdomen, locate the fist-sized uterus, cut out the fingernail-sized ovaries on either side, cauterize the wounds, stitch up three layers of muscle, and close with a row of surgical staples.



Volunteer Debbie LaTorre returns a doe to the woods soon after surgery. The syringe in her teeth holds a tranquilizer-reversing drug. She'll watch from afar to make sure the deer is all right. James Berglie/For The HSUS

It's a procedure Feinberg hopes will put an end to suburban communities killing deer who eat gardens or dart in front of cars. Even if communities don't choose to sterilize deer, she hopes news of the technique's success at least gets them thinking about other nonlethal means, like the

contraceptive vaccine PZP (which The HSUS has funded and championed). Ten does will be sterilized that weekend in Feinberg's garage— including one with entry and exit wounds from a hunter's arrow— bringing to 69 the total "spayed" over the last four years. The method is effective: These days, eight out of every 10 deer sighted by Wildlife Rescue volunteers around Feinberg's house have already been sterilized. They will never get pregnant again. And, unlike deer who are killed, sterilized animals will continue to occupy their half-mile ranges, discouraging other deer from moving in. Given those kind of results, The HSUS—which uses innovation and technology to develop humane solutions to wildlife conflicts—has embraced sterilization as an option for reducing deer numbers. This winter, the organization gave \$3,000 toward a sterilization project in Fairfax City, Va., and started planning to train staff to assist with surgeries (Stephanie Boyles Griffin, HSUS senior director of wildlife response, attended the sterilization at Feinberg's as an observer).

The important thing, says Boyles Griffin, is for agencies and communities to have humane options; which one they choose will depend on the circumstances. In Washington, D.C.'s Rock Creek Park, where sharpshooters from the federal Wildlife Services agency have finished a second winter of killing deer, she hopes that the National Park Service will adopt surgical sterilization. "It will save a lot of lives."

Just over a century ago in this country, white-tailed deer were near extinct due to habitat loss and commercial hunting— so rare that in 1933 Stephen Vincent Benet described them as ghosts: "When Daniel Boone goes by at night / The phantom deer arise / and all lost, wild America / Is burning in their eyes." But even as he wrote, the forest was coming back across abandoned farms in the northeast, and hunting restrictions were helping restore deer. Later, as Americans built the country's suburbs and exurbs, they created the perfect environment for deer, full of meadows and forest edges that function, however unintentionally, like a giant park designed just for them. Multiplying to fill this ideal habitat, the species grew from fewer than 15 million in 1980 to as many as 30 million today—nearly the number when Europeans first arrived in North America.

In communities across the U.S., deer denude carefully planted yards, wander into busy roadways (causing more than a million vehicle accidents each year), and raise the specter of Lyme disease (though white-footed mice are the primary host, and there's no correlation between deer densities and human risk of Lyme). Angry calls to eliminate deer have led to a patchwork of controversial, often ineffective kills, including sharpshooting that must be repeated year after year (DeNicola compares it to cutting grass) and culls that invite amateurs with bows and arrows into residential neighborhoods and hunters with rifles into public parks. But public safety concerns, outcries from residents, and legal action are blocking many culls, including a plan to hire Wildlife Services to kill thousands of deer in eastern Long Island. And recent breakthroughs in fertility control mean killing is no longer the only option. After decades of research, scientists and animal advocates are readying

nonlethal methods for widespread adoption: Surgical sterilization of does is one. Vaccinations with the contraceptive PZP, developed over two decades with the help of The HSUS, is another.

How PZP Works: When a doe is injected with the porcine zona pellucida vaccine, her immune system produces antibodies that bind to the membranes surrounding her eggs, blocking sperm so fertilization does not take place.

“We’re not there yet,” says Boyles. “But we’re close.”

Both methods are considered experimental, meaning those who want to use them must apply to states for permission. But both methods are gaining acceptance. Already, they are being offered to communities on eastern Long Island. Maryland, Virginia, California, and New York granted their first-ever permits for surgical sterilization during the last three years. And this year, The HSUS is applying for EPA approval of PZP use in deer. Meanwhile, a crucial test of PZP is underway in Hastings-on-Hudson, N.Y., the first place where it is being used to reduce a free-roaming population of deer in an open community, versus at a fenced site or on an island.

“If it does work there, it probably ... will work in a lot of other places,” says Tufts University professor Allen Rutberg, a former HSUS staffer who as one of the leading researchers on PZP gets calls every week from people interested in using the vaccine.

Right now, he has to tell them that PZP is only available by special state permit. Many people, desiring more lasting and humane options, are anxious for that to change. Even DeNicola, who is willing to use lethal means, says killing is not necessarily the answer. “It can work, but ... it’s a very very small percentage that actually does it right—to actually have an impact and not just go out and kill a few deer.”

The cost to cull a deer, if you include the expense of processing the meat, runs between \$400 and \$600. Most communities don’t want to spend that, DeNicola says. Instead of funding a professional cull, they solicit free bow hunting from volunteers. But bow hunting, in addition to causing painful, lingering deaths, can’t deliver all the results communities are looking for: It can’t, say, lower the number of deer enough to preserve the forest understory and protect biodiversity. That would require a density of fewer than 20 deer per square mile. Bow hunting at its most effective would leave more than two to three times that number on the land.

In natural ecosystems, the main factors controlling deer numbers are the amount and quality of food, says Cornell University professor Paul Curtis. In the mature forests of the Adirondacks and northern Vermont and New Hampshire, where food for deer is limited, especially during the long winters, they usually number no more than eight per square mile. In densely populated suburbs of New York and New Jersey, where yards and gardens provide excellent forage and winters are mild, deer have multiplied to as many as 100 per square mile.

That's where DeNicola finds his clients, desperate for the quick fix killing seems to offer. "Once you get over 100 deer per square mile," he says, "at least 70, if not 80, percent of the people want zero."

Since 1995, The HSUS's Rick Naugle has labored in a little corner of suburbia to test the PZP vaccine and perfect its delivery. The campus of the federal National Institute of Standards and Technology in Gaithersburg, Md., lies 20 miles northeast of Washington, D.C. It's a deer paradise: wide lawns, ponds, stands of mature trees, and plantings of saplings, each wearing a plastic sleeve to protect it from hungry does and from bucks rubbing velvet off their antlers. The grounds are fenced but deer jump the 6-foot-high barriers or just walk around them, entering at the gates. Motorists driving by on Interstate 270 see deer grazing like cows. About 200 live here and Naugle knows each of them. More importantly, they know him, which has made his job difficult.



Hungrier than they are wary, two deer on Fripp Island, S.C. who are fed by residents approach The HSUS's Rick Naugle, who darted hundreds of Fripp does. Richard Ellis/For The HSUS

While PZP is in the experimental stage, record-keeping requirements mean every one of the NIST deer has had to be darted with a tranquilizer and tagged before being vaccinated. In the early years, deer had to be darted again soon after because the first dose of PZP had to be immediately followed by a booster. Today, a new formulation with timed-release pellets means does don't have to be darted again for two to three years. But then the challenge comes: Each time deer are darted, they grow warier. After 20 years, the deer at NIST are pretty damn smart, says Naugle; they long ago stopped coming to bait or entering a box trap. "When I first started I could dart 10 to 15 a day. Now I'm lucky if I get two."

In February it's finally warm and dry enough to resume darting deer (tranquilized deer might suffer hypothermia in cold or rain). On this day, Naugle is trying to dart deer who have lost ear tags or never had them. First he takes some practice shots. (Hitting the mark is tricky. The gun fires at a low velocity and the dart is big and heavy. Unlike a bullet, it travels slowly, rising and then falling in an arc, so a darter has to get within 20 to 30 yards even without wind.) Then Naugle begins a slow and patient tour of the campus in an all-terrain vehicle, the darting gun, a converted .22, balanced neatly between the corner of the windshield and his thumb.

He quickly spots a doe he's looking for. But the deer, who's been darted before, spots him too. And so when he is getting just about close enough to dart her, she descends a steep slope with other deer, crosses a stream, and starts grazing on a hill on the other side, out of range. Naugle can't follow, so he circles around until he's approaching her from the other side. He's just drawing near when, as before, she evades him, bounding off with the herd back across the stream. Naugle sighs. That day he never does get her. Instead, an hour later, rounding a clump of trees on another part of the campus, he sights a doe who has never been tagged, shoots, and watches as the deer walks off a little ways, staggers, and then goes down in the winter-pale grass. After waiting 20 minutes to make sure she's out, he approaches. A buck stands nearby. "You nut," Naugle says to the deer. "What you doing? Protecting her?" He slips a mask over the doe's eyes so she doesn't startle, pulls her tongue out of her mouth, takes her temperature, checks her heart rate, and puts a tag in her ear. Bold black numerals spell out the number of deer Naugle has darted at NIST: 991.

Naugle grew up in southern Pennsylvania and would hunt in the mountains, pursuing deer when they were much harder to find. While he was earning a degree in wildlife management from Penn State, one of his professors introduced him to Jay Kirkpatrick, director of the Science and Conservation Center in Montana, who produces PZP, or porcine zona pellucida (it's currently derived from pigs, but The HSUS is pursuing development of a nonanimal alternative). The vaccine causes female mammals to produce antibodies that prevent conception. For this reason, it's called immunocontraception. In 1988, Kirkpatrick began testing PZP on the wild horses of Assateague Island. Naugle volunteered. He followed mares around, waiting for them to pee in the sand so the urine could be tested to show whether they were pregnant. That research provided the first evidence from any species that PZP worked in the field.

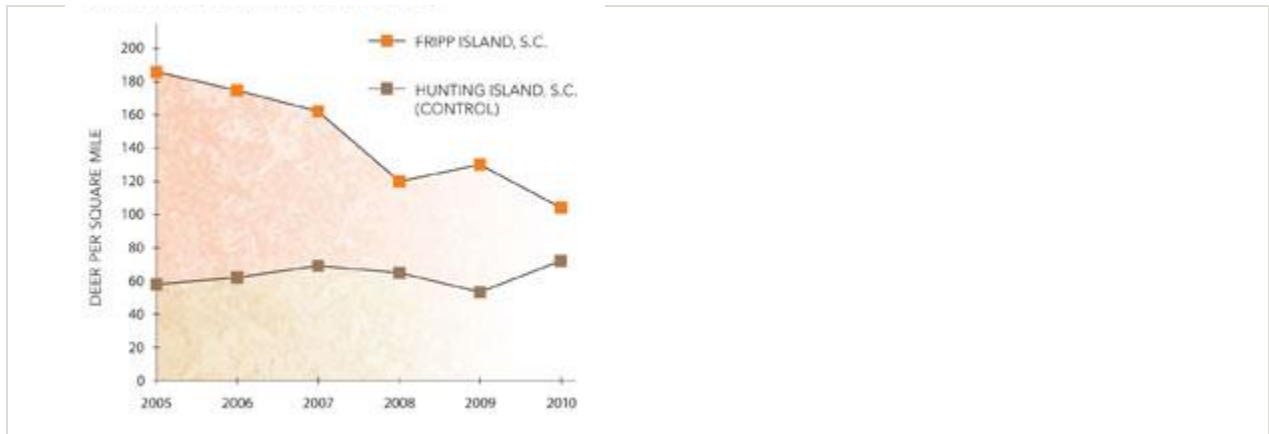


Tagged as treated, a doe wanders into the road on Fripp Island, where deer numbers are down since contraception (but drivers must still proceed with caution). Richard Ellis/For The HSUS

After many years—way more than Naugle expected—the NIST trial too proved PZP’s effective: The number of fawns per doe has fallen to near zero. The population dropped from 300 to 200, where it has remained for the past decade, partly because does, who no longer experience the stress of pregnancy, birth, and nursing, are healthier and live longer. Deer also migrated in, as the wood lots and fields that once surrounded NIST have been converted to row upon row of single-family homes.

There’s a place where PZP has more dramatically decreased deer numbers, at a cost of about \$500 per animal: Fripp Island, S.C. Hunted when Fripp was a private reserve, deer multiplied after the 4-square-mile island became a resort community, with ornamental plantings around vacation and retirement homes and acres of lush golf course grass. They came out of the salt marshes to gobble up fertilized flowers, seedlings, and bushes. They pulled down bird feeders and climbed the stairs onto decks in search of meals. As their numbers grew, there wasn’t enough food for them; their ribs showed through their fur. People took pity and began feeding the deer, which made them even bolder (The HSUS discourages the practice). Finally, in 2003, a group of homeowners proposed shooting deer, and the community divided. A seasonal resident who happened to be a retired judge told the homeowners he’d take them to court, and the group figured it wasn’t an idle threat—nearby Sea Pines Plantation had spent hundreds of thousands of dollars in legal fees trying to undertake a cull.

And so, in 2005, Naugle arrived with his darts and got to know the deer on Fripp. Within five years, the number of deer fell by half. In 2010, the state of South Carolina considered the research over and did not renew the PZP permit, causing deer numbers to rise again. But the population still remains lower than what it was. Deer are a welcome presence, not a nuisance. People recognize them by their tags, call them by their numbers, and recount the animals’ stories as though they’re talking about grandchildren.



As does treated with PZP on Fripp Island, S.C., stopped having fawns, the number of deer dropped from almost 600 to around 300. On nearby Hunting Island, where does were not treated, the deer population rose slightly. Click the chart to enlarge.

When Linda and Bob Freeman first came to Fripp in 2005, they met a hungry deer who would soon be tagged as “84.” Ever since, the retirees’ lives have been intertwined with that doe’s and her descendants’. “That’s 244 and her baby,” says Linda one December day as a doe and fawn appear on the edge of the couple’s white gravel driveway. “She’s 84’s offspring,” Bob explains. “84 ... didn’t come back after the winter.” Linda tosses scraps of bread on the ground for the deer. “We never saw 244 until this summer. ... [That’s when] she brought that fawn here.” At night, the deer sleep in the Freemans’ yard. During the breeding season, Linda comes out in her hooded bathrobe to stamp her foot and shout off bucks coming around the does.

Fripp wouldn’t be Fripp without its deer, she says. “Generations have been coming [to the island] and that’s the thing that people remember. ... [Deer] are part of the fabric of life here.”

Just as PZP was restoring harmony to Fripp Island, Peter Swiderski, mayor of a different sort of community 800 miles to the north, was starting to get complaints from the citizens of Hastings-on-Hudson, north of New York City. From the 1960s on, single-family homes, high-end condos, and office parks had driven deer out of hundreds of acres there, including a big orchard and cattle pasture called Andrus Farm. By the 2000s, fire chief Bobby Russak, a hunter who’s lived in Hastings-on-Hudson all his 62 years, saw the deer moving like refugees through neighborhoods. Residents called the village office. The deer were eating people’s plants and flowers, getting hit by cars, and damaging Hillside Woods, which the community had bought in the early 1990s to save from development. Landscape architect Carolyn Summers, like many village residents a transplant from nearby New York City, had before-and-after pictures showing what had been lost—wild azaleas and pink lady’s slipper—leaving eroding bare earth behind.

When Swiderski contacted the New York State Department of Environmental Conservation, he got the usual list of options. Sharpshooting was out of the question; Westchester County doesn’t allow

firearms to be discharged within its bounds. Bow hunting was also not possible; New York state does not permit arrows to be shot within 500 feet of an occupied building, and the village's homes lie close together. Swiderski settled on a method offered by DeNicola's White Buffalo: net and bolt. Groups of deer are lured to an area with bait, captured in large nets, then, as they scream and struggle, breaking legs or antlers in their panic to get free, shot in the head point-blank with the same kind of bolts used to dispatch cattle in slaughterhouses. To kill, the bolts must enter the brain. With a thrashing deer, this may take several tries.

Most of those at the first village meetings favored killing the deer. But a couple of former Hastings residents, hearing of the plan, started Internet campaigns against Swiderski. One compared him to Hitler. And the mayor figured it was only the beginning—that once the community actually saw how net and bolt was carried out, there would be an outcry and the cull would be abandoned. That's when a staffer from In Defense of Animals told him about PZP. The mayor contacted Rutberg, who explained that this would be an experiment: the first attempt to reduce the number of deer not on an island, like Fripp, or a closed campus, like NIST, but in an open community. The HSUS donated the cost of Naugle's time and his expenses. With this support, Swiderski thinks PZP will make economic sense for Hastings-on-Hudson. The first two years will cost \$24,000. The projected annual cost for the village after that: \$5,000.

Working with Rutberg and skeptical officials at the DEC, Swiderski came up with ways to measure whether PZP succeeds. The village will install camera traps to estimate the size of the deer population over time and build enclosures in the woods to measure how plants grow where deer graze and where they cannot. The police will, as always, record deer-vehicle accidents. And 40 residents will place hostas—favorite deer food—in their yards as sentinels, tracking whether and when they get eaten. No one, including the mayor (or even Naugle, Boyles, or Rutberg), is confident that PZP is the answer in Hastings-on-Hudson. But Swiderski has assembled a group of 120 volunteers who are willing to try.



[Click to enlarge a map](#) showing deer concentrations in the village of Hastings-on-Hudson, New York.

“If it works,” Swiderski says again and again, “we will have done a great thing, not only for us but for a thousand other communities. If it doesn’t work, we won’t have killed any creature, we won’t have split the community, and we’ll also know it doesn’t work in this kind of community.”

Richard Ryan lives in Uniontown, a neighborhood with blue collar roots and small houses where few worry about deer. Ryan has never seen one in his tiny yard, but he likes to walk his beagle in the park at the foot of his street, where the deer browse, and he worries the deer may be damaging native plants, harming the bees and birds and other animals who depend on them. Since he crunches data for a living, he’s agreed to compile reports of sightings from across the village. If the number of reports declines over time, presumably that will mean that the number of deer, or at least concern about the number of deer, has declined.

Daniel Lemons, a biology professor at the City University of New York, lives with his wife in the heights overlooking Reynolds Field, where deer come out of Hillside Woods to graze on the high school football field. Soon after he moved to the village from New York City years ago, Lemons could appreciate the beauty of deer when he saw them. Since then he and his wife have had Lyme disease, which they connect to the deer (though there’s no proof of that), and his wife has stopped going outside to garden. The couple has lost more than \$1,000 worth of plantings to deer and spent money on a backyard fence and gates. In front of their house, the deer have gobbled up the ivy and started nibbling at the pachysandra. Lemons will coordinate volunteers helping Naugle track and dart.

If it works, we will have done a great thing, not only for us but for a thousand other communities." - Peter Swiderski, Hastings-on-Hudson mayor

Irene Jong, a doctor, lives with her husband and three sons in the highest part of the village, just above Hillside Woods. This year, her family put up a backyard fence. They were tired of the trail of droppings the deer left as they traveled through, trampling the grass. Jong will distribute hostas to neighborhoods all over Hastings-on-Hudson; she expects the one she'll place in her own front yard will be quickly eaten. That's why, although she wants a garden, she hasn't yet planted one. It would just be an offer of food, she says. "I don't see starving deer. They look like the pigeons in New York."

Early one morning in February, a week before Naugle is scheduled to begin darting in the village, Jong and her children are still asleep as the deer appear around their home like fugitives. Across the street, a line of branches suddenly waves as 10 deer crash through a side yard, startled by a woman and her dog. "Someone must have let their deer fence open," she says. To the north, while a crescent moon hangs in the sky and a woodpecker hammers, six deer come toward the road, off the ridge where Jong's house sits. They retreat from a passerby, filtering back up the hill and around a house, the last to turn touching her nose to a fawn's. Immediately, a side door opens and a man emerges. "Get! Get!" he shouts. But the deer barely budge. He makes a snowball and throws it at the group, then withdraws in frustration.

The deer disperse in their own time, the doe strolling away, followed by the fawn. From the south, along a trail that skirts Jong's property, more deer arrive, until there are 14 on the ridge, looking down toward the road and the denser park woods beyond. The sun, rising, throws warm light on the tree trunks, and the deer, interspersed, stare with dark eyes. Watching. Waiting. Immune to homeowners' concerns.

If it works, as Mayor Swiderski says—if it works—deer numbers will flatten and then fall. And residents of Hastings-on-Hudson who now feel beleaguered will regain ownership of their village. And then, perhaps, some, when they do spot a deer, will see the animal not as a pest but as a fellow creature, a rare encounter, a wild and once more beautiful friend.

For more, visit humanesociety.org/deer.

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Fact Sheet

Deer Management: Surgical Sterilization

How does surgical sterilization work?

Female deer are surgically sterilized using a technique known as ovariectomies which removes the ovaries – a technique similar to, but less invasive than typical spay surgeries used to sterilize domestic dogs and cats. Female deer are captured via tranquilizers administered via dart projectors and transported to a surgical bay. Preparation and surgery take approximately 20 minutes, the animal is transported back to the capture area, a reversal agent is administered and the animal is observed from a distance. Surgical sterilization is 100 % effective and mortality rates associated with the procedures are less than 1%.

History of Surgical Sterilization Field Research

In 2009, researchers began conducting surgical sterilization field trials in Town & Country, Missouri, and since then, have initiated additional field studies in Cayuga Heights, NY, San Jose, CA, Baltimore County, MD and Fairfax City, VA.

Effectiveness

Surgical sterilization is 100% and permanent. Once a female deer is surgically sterilized via ovariectomy, she can never fawn again. Researchers have also been able to capture and treat high proportions (>90%) of existing female deer populations at study areas in New York, California and Maryland which is critical to achieving immediate population stabilization and gradual reduction over time.

Population Control

The population effects of surgical sterilization on deer are site-specific, but typically, population stabilization is rapid and population reduction is gradual (10-30% per year). In Cayuga Heights, NY, researchers sterilized 95% of the female deer population (i.e. 149 does) in two years and observed a 30% decline after year one. In San Jose, CA, over 90% of the female deer (i.e. 115 does) were sterilized in two years and researchers observed a 20% decline after year one.

Surgical Sterilization versus Immunocontraception

Surgical sterilization and immunocontraception are both effective, humane (i.e. <1% mortality) methods for stabilizing and reducing deer populations over time, and the use of volunteers and/or trained on-site personnel can substantially reduce the costs associated with implementing either method. Immunocontraception vaccines are 90-95% effective the first year, are reversible and can be administered without capturing and tranquilizing female deer. However, in order to remain effective, previously treated female deer must be re-treated with boosters every two to three years. Surgical sterilization is 100% effective and only requires the animal to be treated once in their entire lifetime, but the surgical procedure is more invasive than treating female deer with vaccine darts every two to three years.

Regulatory Status

Unlike the administration of the immunocontraception vaccine PZP, surgical sterilization projects do not require authorization from the FDA or EPA. However, like all deer management programs, surgical sterilization and immunocontraception programs must be approved and permitted by state and local wildlife agencies.



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Deer Problem Management

By Laura Simon, Wildlife Ecologist for HSUS
CT Field Office
lsimon@hsus.org

Introduction:

An increasing number of community leaders are grappling with what to do about deer. Complaints abound yet controversy erupts when plans to open up town land for hunting is announced. Protests, angry presentations at town meetings and the pitting of neighbor against neighbor occur. Community leaders want to do something to alleviate complaints, yet a clear solution isn't apparent. Often a hunt is decided upon, ambitious collision and damage reduction goals are announced but no baseline data is collected or monitoring system set up. Community leaders are hard pressed to show what if anything the hunt has achieved and if taxpayer dollars were well spent.

Source of the problem:

- Suburban development created ideal “edge” habitat, suburban landscaping and gardens provide a virtual buffet - there's more food for them in backyards than the deep dark woods where they supposedly “belong”. Thus we are essentially enticing deer in.
- Deer adapt easily to human presence, lose fear
- People have different values and attitudes towards deer – hunters, deer watchers, deer feeders – and those values are influenced by their concerns and upbringing

Unintended consequences of hunting/ culling:

It is also assumed that culling deer will decrease the deer population itself, however:

- Increase in reproductive rate
- Immigration of new deer to area
- Requires more hunter effort to take out same number of deer as numbers go down
- Many areas inaccessible to hunters - deer killed in one area may not be those causing problems in other areas
- Public concerns about/ attitudes towards deer influences their perception of how many deer there are (or how many there “should “be)

Other issues with hunting/culling

- High direct and indirect costs: if use sharpshooters, recurring annual cost, if use public hunters, still costs city in terms of enforcement staff and overtime, etc
- Controversy! A divided and angry public, kids and adults traumatized by sight of wounded deer
- Wounded deer often run off huntable property onto private land – will town ask all adjoining landowners to allow trespass for blood trail tracking purposes?

- Set-back restrictions –local ordinances and state regulations often don't allow hunting or firearm discharge within a certain distance of dwellings
- Doing “something” – ie a cull – is not the answer. It may appease those who want to see action but if the problems aren't solved, then it's a waste of taxpayer money.
- Need for additional liability insurance – need to explore

Issues with particular types of culls/hunts:

- Bow-hunting: considered safer, but inefficient, high wounding rate. Struck deer may run onto adjacent properties
- Shotgun – more efficient yet safety issues, controversial, wounding rate issues remain
- Sharpshooting – more efficient but needs to be repeated on recurring schedule, expensive, controversial

Designing a Deer Problem Mitigation Plan

- Collect site-specific data to indicate scope of problem
- Set clear, achievable and measurable goals
- Tailored to particular problems
- Long term, not “quick fix”
- Create ongoing monitoring program to assess program's level of goal achievement
- Clearly spell out the long term-costs and time-line
- Public education pivotal to success & community support

What We See in Most Communities:

- Hunting is often proposed as the best way to manage deer problems, yet:
- Valid baseline data are not collected – so you have no starting point
- Overly-broad, non-measurable goals are set
- A solid monitoring system is not put in place
- Not clear what cull/hunt has achieved, success measured by anecdote and hearsay.

A Better Approach: Focus on managing conflicts, not numbers – ie create Deer Problem Management Plan

- 1) Define Problem at a Community Level
Collect Meaningful Data
 - a. Use of resident surveys, not general arguments
 - b. Set up robust accident reporting system
 - c. Set up robust complaint reporting system
 - d. Collect data on deer attractants in town (ex: town floral islands which attract deer)
 - e. Flag locations of sightline barriers along roadway, and ID collision hotspots
- 2) Give Hands-On Solutions to the Public

- a. Educational materials on resolving backyard problems , deal with source of problem, correct misconceptions
- b. Deer-proof gardening workshops, discounts at local garden stores, “Deer Days”, pilot fencing and deer proof garden sites
- c. Accident reduction program (ex: Rochester Hills template) which has big public education component on defensive driving, ie when one deer crosses road others will follow, don’t veer, etc.

First step: Proper assessment:

- 1) Assess /define scope of deer problems :
 - a. Conduct resident survey
 - b. Assess what kind of damage, severity, number of public complaints and where
 - c. Create accident reporting system (using exact location, time of day, if injuries/ vehicle damage, etc – see Rochester Hills)—assess accident hotspots
 - d. Overlay maps of collisions, deer corridors, areas of high deer density, town green space, where complaints located
 - e. Can do aerial survey to get indices on deer population, but these are just snapshots of one point in time
 - f. Evaluate location and type of deer attractants in town: i.e. public flower exhibits, roadside or roadway divider floral displays, etc – contain deer preferred flower species?

Second step: Create public input channels

- 1) Set up deer advisory committee with balanced composition (not containing one token humane advocate, but rather, a balance --- 2 humane society representatives, 2 advocates for not culling, etc)
- 2) Have open public forums to discuss the deer situation – include speakers on all sides of issue, not just agency rep and hunt proponent
- 3) Present easily accessible information to public: Utilize city website, advertise via local media: be sure any report or information includes long and short term costs (direct, indirect), short and long-term costs, benefits and a specific timeline. (Rochester Hills web site is a great template)

Third step: Utilize range of non-lethal options for site-specific application:

1. Vital: *Have designated person in charge of overseeing deer program*

1. Deer Damage to Gardens:

- 1. Public Education: Put conflict resolution information on town website, (ex: links to local resources, where to find deer-resistant plant lists, etc)
- 2. Have city host deer-resistant gardening workshops (see <http://www.deerproofyourgarden.com/>)
- 3. Prioritize deer-resistant flower and ornamental species in all town landscaping / floral displays – publicize this as a measure to reduce deer attractants and the unintentional luring of deer onto roadways. Collaborate with garden club and local beautification committees.
- 4. Host deer-proofing days – utilize boy scouts and other local groups to put up fencing etc at local parks, have publicized events at local garden stores (ie where deer deterrent products discounted on certain days, etc)

2. **Deer-Car Collisions:**

1. Use Rochester Hills MI “Don’t Veer for Deer” campaign as a model – see <http://www.rochesterhills.org/index.aspx?NID=569>
2. Collision hot spots – utilize speed bumps, movable changeable message boards, warning devices (Streiter lites, Deer Deter Wildlife Crossing Guard (<http://strieter-lite.com> ; <http://deerdeter.com>))
3. Designated city representative - in charge of reducing visual barriers on roadways, coordinating roadway maintenance plan which includes using salt replacement in winter, doing vegetative management/brush removal to increase visibility along roadways, to negotiate with private landowners about reducing visual barriers (roadway brush on private property), evaluate hotspot areas for lower speed limits, collect and compile accident data. This designated person in charge of “Don’t Veer for Deer” campaign – placement of moveable changeable message boards and warning devices, educational outreach etc.
4. Importance of getting good information in to all new driver education programs (high school, driving school, programs for the elderly, etc)

3. **Deer feeders** – develop educational literature, encourage neighbor-to-neighbor sit-downs and have town personnel conduct diplomatic visits to offenders, publicize (as part of education campaign) how feeding not good *for the deer*

4. **Lyme disease**

1. Public education campaign focusing on personal prevention steps, links on town website to CDC and other expert resources re: disease prevention methods (personal protection measures, landscaping practices, etc), tools and resources
2. Possible: Draw up community –based plan for strategic placement of 4-
Posters

5. **Biodiversity issues**

1. Seek out collaboration with local Natural Resource schools / universities to have college students do this necessary field work -Importance of doing valid survey to establish baseline data on deer browsing level in specific areas,
2. Consider use of forestry methods, fertilizing, temporary or permanent fencing etc to protect valued plant communities, etc

6. **Population Management**

1. Do annual aerial surveys to get indices on local deer population and track changes over time
2. Consider site viability for surgical sterilization (ovariectomies) or pilot immunocontraception project

7. **Aggressive deer**

1. Have designated person evaluate situation
2. Educate resident about temporary and rare nature of this, importance of keeping dog and people away from fawn
- 3.

8. Orphaned fawns

1. Include in all educational material and in spring-summer media: how 99% of “orphaned” fawns NOT orphaned and should be left alone
2. How fawn “parked” in grass, relies on camouflage for protection. Mom will nurse fawn 2x but stay away the rest of the time since her odor will attract predator (fawn is odorless)
3. Once fawn a month old, will travel around with mother.
4. Only if fawn wandering and crying all day, a/o dead lactating doe in road, should fawn go to rehabilitator
5. If fawn picked up by resident, needs to be promptly returned to site.

4th Step : Program Assessment

1. Set up robust resident complaint and deer-car collision reporting system -- monitor over time so know if goals achieved and if accidents and “nuisance” complaints decline over time
 - a. Resident complaints: record type, extent, duration , location of complaint
 - b. Collision reporting :accident location (exact), time of day, if injuries, damage to car (s), if just dead deer in road, etc
2. Conduct another resident survey to measure resident satisfaction with program

Public education: pivotal to success & community involvement

- Use city web site and all other outreach/media avenues, emphasize ways to deer proof gardens and yards, avoid collisions, why not to feed deer, etc.



FACT SHEET: PZP IMMUNOCONTRACEPTION for DEER
Dr. Allen Rutberg, Center for Animals and Public Policy

How Immunocontraception Works

Immunocontraceptive vaccines activate the immune system to block a crucial aspect of reproduction. The porcine zona pellucida (PZP) vaccine causes female deer to produce antibodies that bind to the protein envelope surrounding the egg, blocking fertilization.

PZP is NOT a hormone and does not affect other body processes.

History of PZP Field Research

PZP was first recognized as an effective contraceptive in the 1970's. Since we first began treating deer on Fire Island, New York, in 1993, nearly 2000 deer have been treated at field sites in seven states. ***The effects of PZP on deer and other animals are very well known.***

Effectiveness

Treatment of white-tailed deer with PZP typically reduces pregnancy rates by 80-90%. PZP can be delivered by hand or remotely, by dart. Using current technology, ***a single hand-injection of PZP prevents pregnancy for about 2 years.*** Subsequent boosters may last longer.

Side Effects and Safety

PZP is a naturally occurring protein that must be injected to be effective. ***If eaten, PZP is broken down like any other protein.*** In deer, the only known side effect of PZP treatment is extension of the mating season; there is no evidence that this causes any harm.

Population Control

Suburban deer populations have been stabilized and modestly reduced (20-50%) at three field sites. Typically, population stabilization is rapid, but population reduction is gradual (5-10% per year). All three sites are semi-isolated by geography or development, but deer move on and off all of them. ***Population effects of contraception are site-specific.***

Deer-Vehicle Collisions

Data from the Maryland site show that the number of deer-vehicle collisions goes down as deer population size goes down. ***PZP treatments do not increase deer-vehicle collisions.***

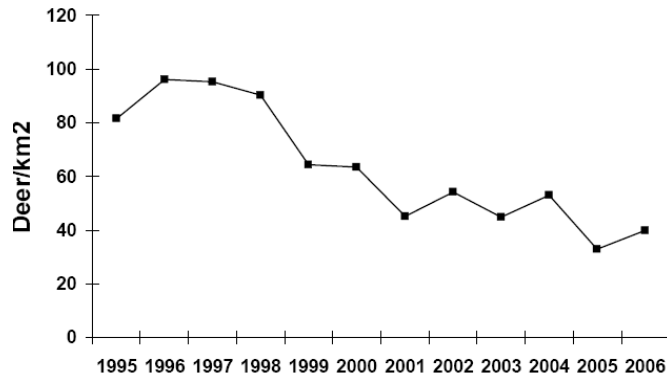
Cost and Effort

At Fripp Island, SC, the cost of initial capture and treatment of deer with 2-year vaccine was approximately \$500/deer; dart-delivered annual boosters cost \$100/deer. Achieving rapid population stabilization and slow decline for about 300 deer would require approximately ***\$40,000 for both the first and second years***, and lower amounts after.

Regulatory Status

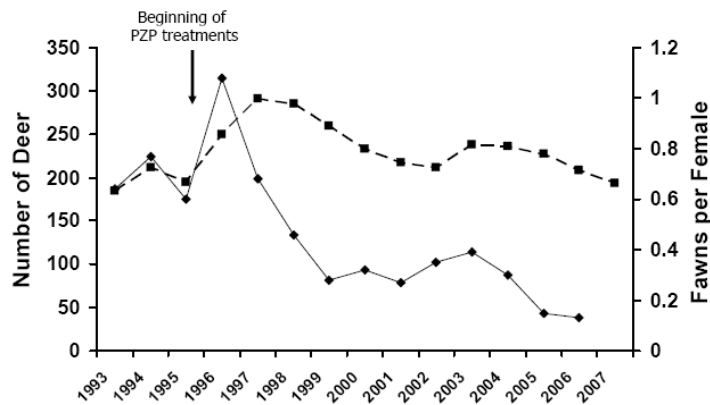
Use of PZP on deer must be approved by the CTDEP. Federally, the EPA has taken jurisdiction over contraception of free-roaming wildlife. In **January 2012, the EPA registered PZP for use in wild horses** under the trade name "ZonaStat-H," but it has not yet been registered for deer.

Fire Island National Seashore, 1995-2006



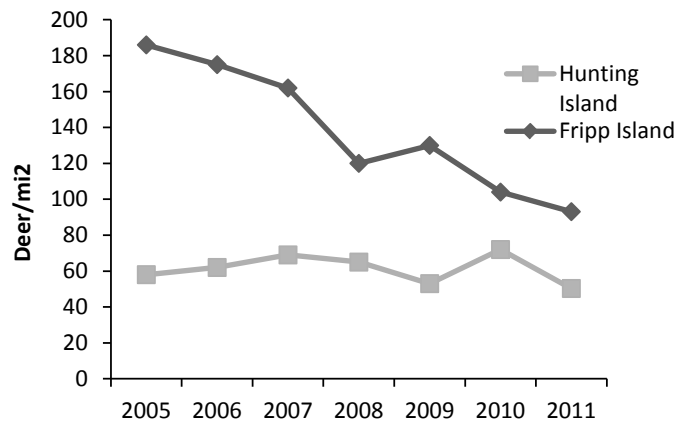
From Rutberg & Naugle 2009

National Institute of Standards and Technology, MD, 1993-2008



From Rutberg & Naugle 2009

Deer Population Densities at Fripp Island and Hunting Island (Control Site), SC, 2005-2011



From Rutberg et al. 2013 *J. Zoo Wildl. Med.* 44(4S):75-83

Contact Information: allen.rutberg@tufts.edu

February 2014

Some Per-deer Cost Estimates from PZP Study Sites

Fire Island National Seashore, NY

- Deer are highly accessible.
- Individuals have never been captured and are not ear-tagged or individually recognized.
- Deer are treated annually by dart with simple emulsions of PZP/adjuvant.
- Marking darts are used to determine which individuals have been treated.

Costs per treatment exclusive of labor: \$64

Person-hours labor per deer: 1.0 hrs.

Labor costs/deer @ \$15/hour \$15

Total estimated treatment cost: \$79 per deer

National Institute of Standards and Technology, MD

- Deer are moderately accessible.
- Individuals are initially captured, ear-tagged, and hand-treated with simple emulsions of PZP and adjuvant.
- Subsequently, they are treated annually by dart with simple emulsions of PZP/adjuvant.

Cost of initial capture and treatment exclusive of labor: \$160

Person-hours labor to capture, eartag, and treat deer: 6.7 hrs

Labor costs/deer captured @ \$15/hour: \$101

Total estimated cost of initial capture and treatment: \$261 per deer

Costs of booster delivery exclusive of labor: \$58

Person-hours labor per deer: 2.0 hrs

Labor costs/deer @ \$15/hour: \$30

Total estimated cost of annual re-treatment: \$88 per deer

Fripp Island, SC

- Deer are highly accessible.
- Individuals are initially captured, ear-tagged, and hand-treated with timed-release two-year vaccine.
- After two to three years, they are re-treated by dart with simple emulsions of PZP/adjuvant.

Cost of initial capture and treatment exclusive of labor: \$390

Person-hours labor to capture, eartag, and treat deer: 8.2

Labor costs/deer captured @ \$15/hour: \$123/deer

Total estimated cost of initial capture and treatment: \$513 per deer

Costs of booster delivery exclusive of labor: \$58

Person-hours labor per deer: 3.0

Labor costs/deer @ \$15/hour: \$45

Total estimated re-treatment cost: \$103 per deer

Using PZP to Manage Suburban White Tailed Deer Populations

What is PZP?

The zona pellucida is a membrane that surrounds the unfertilized eggs of mammals. Porcine zona pellucida (PZP) is the membrane extracted from pig ovaries. The PZP vaccine causes female deer to produce antibodies that bind to the ZP proteins surrounding the egg, blocking fertilization. PZP is NOT a hormone, does not affect other body processes, and does not accumulate in the food chain.



Who Needs to Approve a PZP Project?

Aside from endorsement at the local level from both landowners and municipal government, use of PZP on white-tailed deer requires approval from the state wildlife agency. Federally, jurisdiction over contraception of free-roaming wildlife is held by the EPA. PZP is currently registered with the EPA for use in wild horses and burros (as “ZonaStat-H”). In December 2015, the HSUS applied to EPA to extend PZP registration to include deer as well. This is a first step towards using PZP to manage deer without being part of research.

PZP Research Projects

At this time, PZP is being utilized under research permits to address deer population dynamics by way of injectable vaccination. Current research is exploring real-world application, focusing on lengthening vaccine efficacy, refining remote delivery techniques, and devising new methods for identifying and tracking treated animals.

Through a partnership with HSUS, communities can explore utilizing PZP research programs to address human-wildlife conflicts by participating in a 5-7 year study in which immunocontraception will be tested as a tool to provide a workable, nonlethal solution to deer population management.

Criteria for Study Site Consideration

Landscape: Ideally, 1 to 5 square miles of suburban habitat on which development is largely complete, since new developments can displace animals, concentrate them in the study area, and make it difficult to achieve specific population goals. Well-distributed pockets of natural open space make excellent sites for capturing and treating the community’s deer.

Access to Deer: The most successful outcomes are obtained when most deer are approachable to within 25 yards, and are commonly found in areas where field teams can work safely and with minimal disturbance. If deer use mostly private property, access to the animals is dependent upon obtaining landowner permission to bait and treat deer. Without access to animals, it is difficult to apply any type of management plan with success.

Community support: Evidence of broad community support for an immunocontraception project is essential before a site will be considered. Availability of funding, in-kind support, and active citizen participation are considered crucial to the initiation and success of a project.



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Community Deer Problem Management Plan Elements

Written by Laura Simon, Wildlife Ecologist

Create a model deer conflict management plan:

- ❖ Assess /define scope of deer problems :
 1. Conduct resident survey
 2. Assess what kind of damage, where, number of complaints
 3. Overlay maps of collisions, deer corridors, areas of high deer density, where complaints located

- ❖ Apply site-specific solutions to clearly defined problems
 1. **Deer Damage to Gardens:**
 1. Public Education: Put conflict resolution information on town website, (ex: links to local resources, where to find deer-resistant plant lists, etc)
 2. Consider hosting deer-resistant gardening workshops (see <http://www.deerproofyourgarden.com/>)

 2. **Deer-Car Collisions:**
 1. Use Rochester Hills MI “Don’t Veer for Deer” campaign as a model – see <http://www.rochesterhills.org/index.aspx?NID=569>
 2. Collision hot spots – utilize speed bumps, movable changeable message boards, warning devices (Streiter lites, Deer Deter Wildlife Crossing Guard (<http://strieter-lite.com> ; <http://deerdeter.com>))
 3. Reduce visual barriers on roadways, use salt replacement in winter, vegetative management so better sight lines, visibility along roadways

 3. **Deer feeders** – encourage diplomatic sit-downs with neighbors, education campaign

 4. **Lyme disease**
 1. Public education campaign, links on town website to CDC and other expert resources re: prevention methods, tools and resources

2. Draw up community –based plan for strategic placement of 4-*Posters*
 3. Property-targeted approach – encourage tick-inhospitable landscaping practices, links to product websites such as *Damminix*
- **Biodiversity issues**
 1. Importance of doing valid browse survey to establish baseline data on deer browsing level
 2. Consider use of forestry methods, fertilizing, temporary or permanent fencing etc to protect valued plant communities, etc
- ❖ Population Management
 1. Consider site viability for surgical sterilization (ovariectomies) or pilot immunocontraception project
 - ❖ Program Assessment
 1. Set up robust resident complaint and deer-car collision reporting system -- monitor over time so know if goals achieved
 - ❖ Public education: pivotal to success & community involvement
 1. Use city web site and all other outreach/media avenues, emphasize ways to deer proof gardens and yards, avoid collisions, why not to feed deer, etc.
 2. Importance of getting good information in to all new driver education programs (high school, driving school, programs for the elderly, etc)
- ✓ **Setting Management Goals:**
 - ❖ Site-specific solutions
 - ❖ Based on scientifically valid data/ documentation
 - ❖ Tailored to a particular problems
 - ❖ Long-term, not “quick fix”
 - ❖ Need for valid monitoring system to assess goal achievement
 - ❖ Public education pivotal to success & community support

Helpful resources re: a variety of deer-conflict solutions:

- ❖ www.humanesociety.org/solvingproblems

Information on Tickborne Illness in Charlottesville:

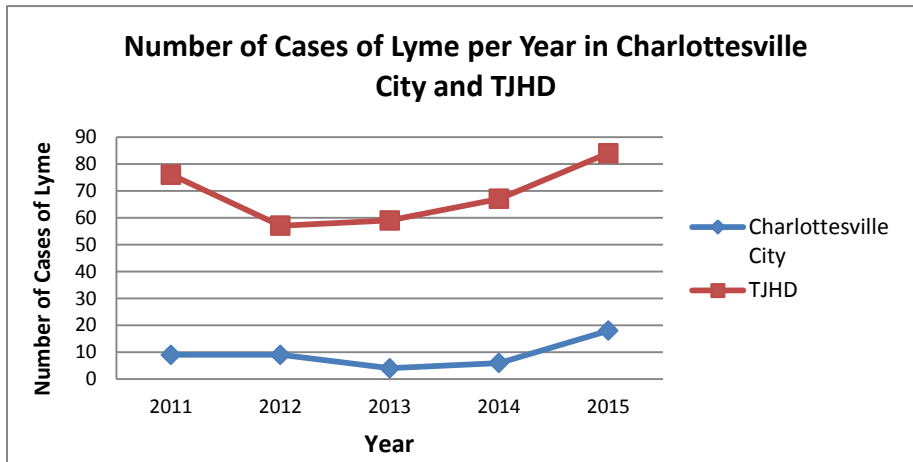
All Tickborne Illness

All Tickborne Illness in TJHD, 2011-2016

| Condition | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | TOTAL |
|--|------------|-----------|-----------|-----------|------------|-----------|------------|
| Anaplasma phagocytophilum infection | 0 | 2 | 1 | 0 | 0 | 1 | 4 |
| Babesiosis | 0 | 1 | 0 | 1 | 1 | 0 | 3 |
| Ehrlichia chaffeensis infection | 5 | 8 | 4 | 5 | 10 | 4 | 36 |
| Lyme disease | 76 | 57 | 59 | 67 | 84 | 28 | 371 |
| Spotted Fever Rickettsiosis (including RMSF) | 26 | 31 | 23 | 22 | 23 | 8 | 133 |
| TOTAL | 107 | 99 | 87 | 95 | 118 | 41 | 547 |

All Tickborne Illness in Charlottesville City, 2011-2016

| Condition | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | TOTAL |
|--|-----------|-----------|----------|----------|-----------|----------|-----------|
| Babesiosis | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| Ehrlichia chaffeensis infection | 0 | 1 | 0 | 0 | 2 | 0 | 3 |
| Lyme disease | 9 | 9 | 4 | 6 | 18 | 4 | 50 |
| Spotted Fever Rickettsiosis (including RMSF) | 4 | 1 | 2 | 2 | 3 | 1 | 13 |
| TOTAL | 13 | 11 | 6 | 8 | 24 | 5 | 67 |



In summary:

- Lyme is increasing in Charlottesville City but it is also increasing across the district as a whole
- Lyme is the most common tickborne illness in Charlottesville City and TJHD, followed by spotted fever rickettsiosis and ehrlichiosis. This is also true for Virginia as a whole.

Lyme by Zip Code

Lyme in Charlottesville City by Zip Code, 2015

| Zip | Frequency | Percent |
|-------|-----------|---------|
| 22901 | 6 | 33.33% |
| 22902 | 7 | 38.89% |
| 22903 | 5 | 27.78% |

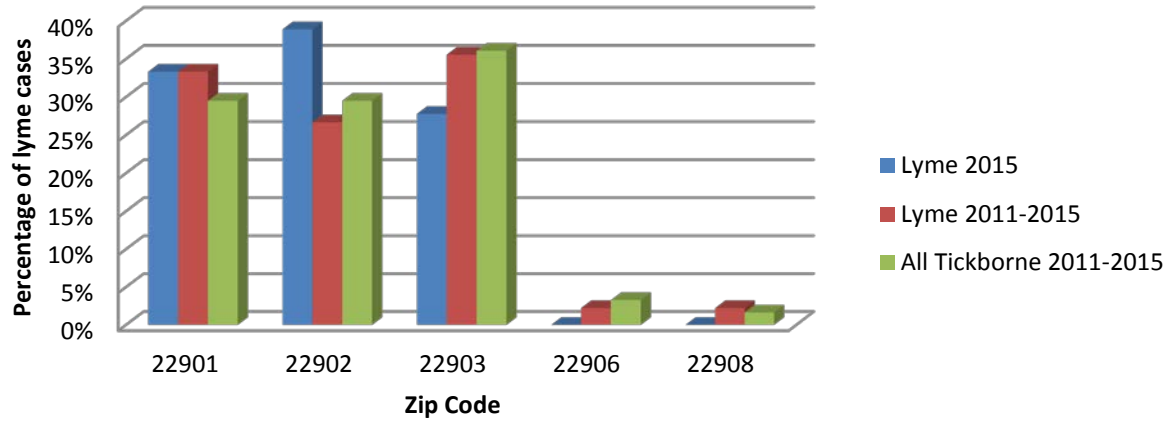
Lyme in Charlottesville City by Zip Code, 2011-2015

| Zip | Frequency | Percent |
|--------------|-----------|----------------|
| 22901 | 15 | 33.33% |
| 22902 | 12 | 26.67% |
| 22903 | 16 | 35.56% |
| 22906 | 1 | 2.22% |
| 22908 | 1 | 2.22% |
| TOTAL | 45 | 100.00% |

All Tickborne Illness in Charlottesville City by Zip Code, 2011-2015

| Zip | Frequency | Percent |
|--------------|-----------|----------------|
| 22901 | 18 | 29.51% |
| 22902 | 18 | 29.51% |
| 22903 | 22 | 36.07% |
| 22906 | 2 | 3.28% |
| 22908 | 1 | 1.64% |
| TOTAL | 61 | 100.00% |

Percentage of Lyme or All Tickborne Cases in Charlottesville City by Zip Code



In summary, Lyme and tickborne illnesses are relatively evenly distributed across Charlottesville City.

Tick-borne Disease Chart

| Tick-borne Diseases | Anaplasmosis | Ehrlichiosis | Babesiosis | Lyme Disease | Rocky Mountain Spotted Fever | Tularemia |
|---|--------------|--------------|------------|--------------|------------------------------|----------------|
| Blacklegged Tick <i>Ixodes scapularis</i> | Vector | | Vector | Vector | | |
| Lone Star Tick <i>Amblyomma americanum</i> | | Vector | | | | Vector |
| American Dog Tick <i>Dermacentor variabilis</i> | | | | | Vector | Vector |
| Tick Stage that Transmits the Most Disease to People | Nymph | Adult | Nymph | Nymph | Adult Only | Nymph or Adult |
| Minimum Feeding Time for Disease Transmission | 24 hours | 24 hours | 36 hours | 36 hours | 4-6 hours | Not known |

From the CDC: <http://www.cdc.gov/lyme/transmission/>

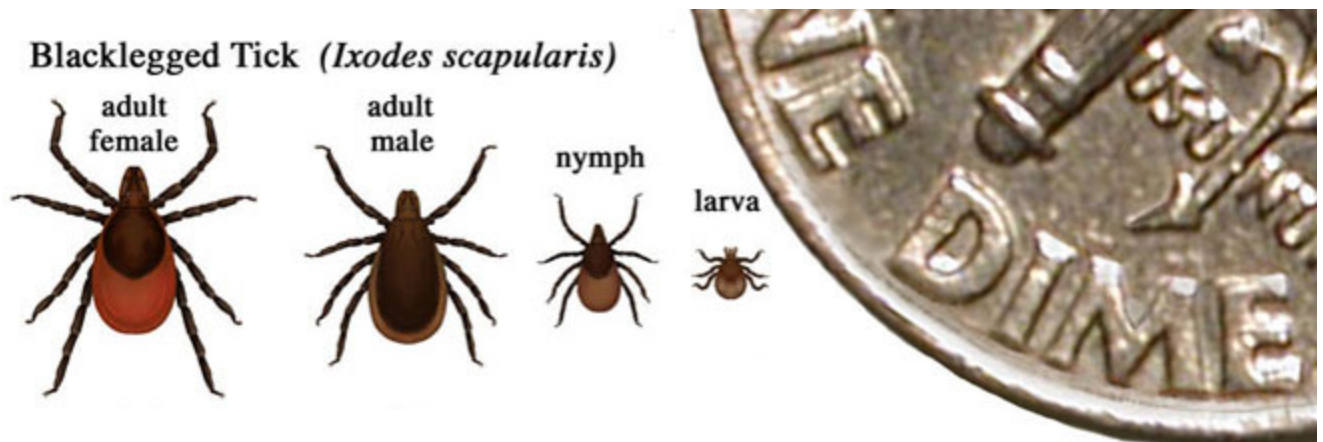
Transmission

The Lyme disease bacterium, *Borrelia burgdorferi*, is spread through the bite of infected ticks. The blacklegged tick (or deer tick, *Ixodes scapularis*) spreads the disease in the northeastern, mid-Atlantic, and north-central United States. The western blacklegged tick (*Ixodes pacificus*) spreads the disease on the Pacific Coast.

Ticks can attach to any part of the human body but are often found in hard-to-see areas such as the groin, armpits, and scalp. In most cases, the tick must be attached for 36 to 48 hours or more before the Lyme disease bacterium can be transmitted.

Most humans are infected through the bites of immature ticks called nymphs. Nymphs are tiny (less than 2 mm) and difficult to see; they feed during the spring and summer months. Adult ticks can also transmit Lyme disease bacteria, but they are much larger and are more likely to be discovered and removed before they have had time to transmit the bacteria. Adult *Ixodes* ticks are most active during the cooler months of the year.

Relative sizes of blacklegged ticks at different life stages



In general, adult ticks are approximately the size of a sesame seed and nymphal ticks are approximately the size of a poppy seed.

Are there other ways to get Lyme disease?

- There is no evidence that Lyme disease is transmitted from person-to-person. For example, a person cannot get infected from touching, kissing, or having sex with a person who has Lyme disease.
- Lyme disease acquired during pregnancy may lead to infection of the placenta and possible stillbirth; however, no negative effects on the fetus have been found when the mother receives appropriate antibiotic treatment. There are no reports of Lyme disease transmission from breast milk.
- Although no cases of Lyme disease have been linked to blood transfusion, scientists have found that the Lyme disease bacteria can live in blood that is stored for donation. Individuals being treated for Lyme disease with an antibiotic should not donate blood. Individuals who have completed antibiotic treatment for Lyme disease may be considered as potential blood donors. Information on the current criteria for blood donation is available on the [Red Cross website](#).
- Although dogs and cats can get Lyme disease, there is no evidence that they spread the disease directly to their owners. However, pets can bring infected ticks into your home or yard. Consider protecting your pet, and possibly yourself, through the use of tick control products for animals.
- You will not get Lyme disease from eating venison or squirrel meat, but in keeping with general food safety principles, always cook meat thoroughly. Note that hunting and dressing deer or squirrels may bring you into close contact with infected ticks.
- There is no credible evidence that Lyme disease can be transmitted through air, food, water, or from the bites of mosquitoes, flies, fleas, or lice.
- Ticks not known to transmit Lyme disease include Lone star ticks (*Amblyomma americanum*), the American dog tick (*Dermacentor variabilis*), the Rocky Mountain wood tick (*Dermacentor andersoni*), and the brown dog tick (*Rhipicephalus sanguineus*).

How ticks find their hosts

Ticks can't fly or jump. Instead, they wait for a host, resting on the tips of grasses and shrubs in a position known as "questing". While questing, ticks hold onto leaves and grass by their lower legs. They hold their upper pair of legs outstretched, waiting to climb onto a passing host. When a host brushes the spot where a tick is waiting, it quickly climbs aboard. It then finds a suitable place to bite its host.

How ticks attach to their hosts

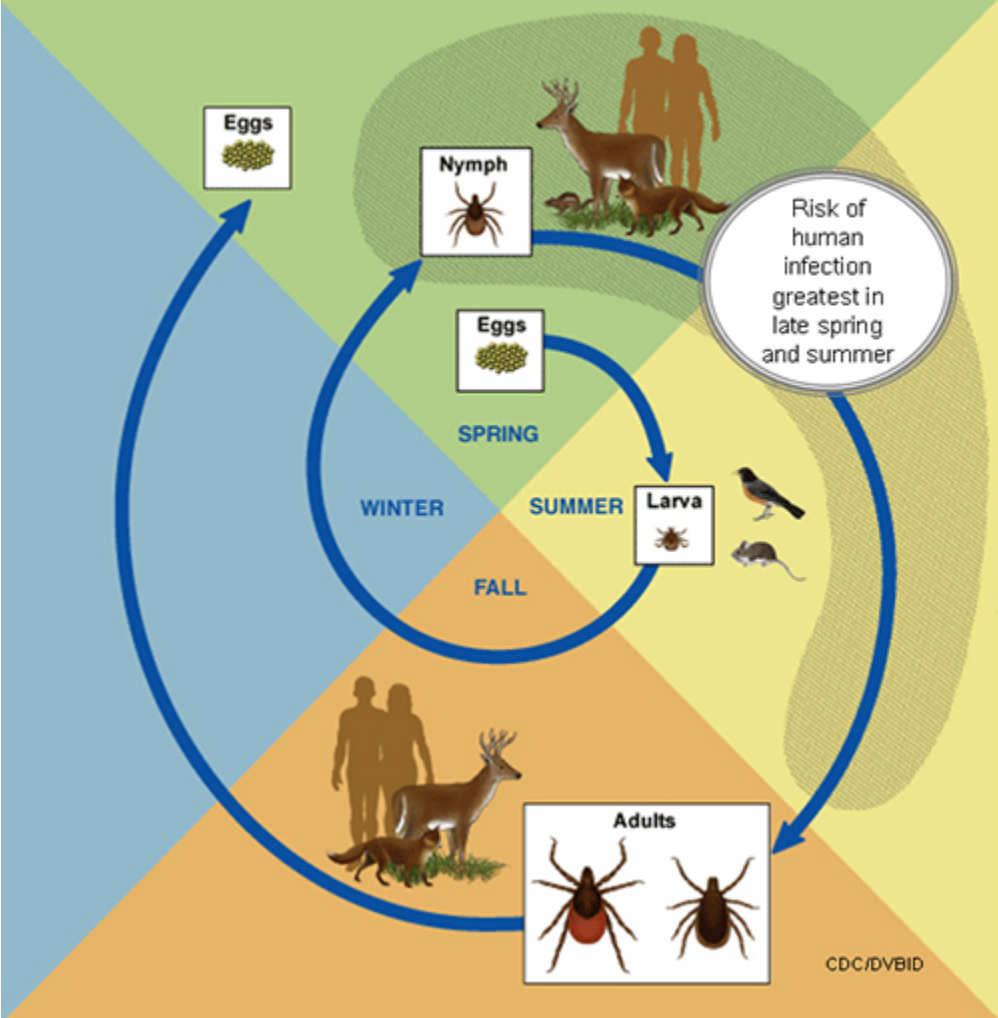
The tick feeding process makes ticks very good at transmitting infection:

- Depending on the tick species and its stage of life, preparing to feed can take from 10 minutes to 2 hours. When the tick finds a feeding spot, it grasps the skin and cuts into the surface. The tick then inserts its feeding tube. Many species also secrete a cement-like substance that keeps them firmly attached during the meal. The feeding tube can have barbs, which help keep the tick in place.
- Ticks also can secrete small amounts of saliva with anesthetic properties so that the animal or person can't feel that the tick has attached itself. If the tick is in a sheltered spot, it can go unnoticed.
- A blacklegged tick will attach to its host and suck the blood slowly for several days. If the host animal has certain bloodborne infections, such as the bacteria that cause Lyme disease, the tick may ingest the pathogen and become infected. If the tick later feeds on a human, that human can become infected.
- After feeding, the blacklegged tick drops off and prepares for the next life stage. At its next feeding, it can then transmit the infection to the new host. Once infected, a tick can transmit infection throughout its life.
- If you remove a tick quickly (within 24 hours), you can greatly reduce your chances of getting Lyme disease. It takes some time for the Lyme disease-causing bacteria to move from the tick to the host. The longer the tick is attached, the greater the risk of acquiring disease from it.

Lifecycle of blacklegged ticks collapsed

The lifecycle of blacklegged ticks (*Ixodes scapularis* and *Ixodes pacificus*) generally lasts two years. During this time, they go through four life stages: egg, six-legged larva, eight-legged nymph, and adult. After the eggs hatch, the ticks must have a blood meal at every stage to survive.

Blacklegged ticks can feed from mammals, birds, reptiles, and amphibians. The ticks need to have a new host at each stage of their life, as shown below:



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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date: *September 19, 2016*

Action Required: *Approval of Virginia Discovery Museum Lease*

Presenter: *Lance Stewart, Public Works*

Staff Contacts: *Lance Stewart, Public Works*

Title: *Virginia Discovery Museum Lease*

Background:

The Virginia Discovery Museum was incorporated in 1981 and celebrated its 25th anniversary on the Charlottesville Downtown Mall on May 1, 2015. The City's offer of a low-cost property lease was essential to getting the Museum off the ground, and to ensuring that it remains an inexpensive place for generations of children to discover the historical and natural world around them.

The Museum's mission is "to bring young children and families together to engage minds, excite imaginations and explore the world around them." Admission exceeds more than 60,000 visitors a year from all over the United States and beyond. In its history, the Museum has welcomed more than 885,000 visitors and become an anchor and economic driver for the Mall's East End.

The Virginia Discovery Museum is the only children's museum in Charlottesville and has been a vital and active organization in the Charlottesville/ Albemarle community. It presents community-wide events, summer camps for children, and is dedicated to providing developmentally appropriate, engaging hands-on programs and exhibits for young learners related to history, science and the humanities. In support of its mission, the museum offers free and low-cost outreach programs aimed at addressing the needs of underserved children in our community.

Discussion:

The proposed lease agreement is consistent with the spirit of past agreements. The Museum is responsible for the majority of basic operating functions and costs, excepting those maintenance functions provided by the City which are deemed critical to the integrity and safety of the building. Rent has been increased to offset the costs of those maintenance services over the previous five years, and a provision has been included to increase the rent annually to keep pace with inflation.

This proposed lease also includes the portion of the Downtown Mall occupied by the carousel, previously addressed via a separate lease agreement.

Alignment with City Council’s Vision and Strategic Plan:

A Center for Lifelong Learning

Community Engagement:

A public hearing is being held, and has been advertised as required by law.

Budgetary Impact:

The proposed lease would continue the historically neutral budgeting approach for the upcoming year. The approved 2015-2016 fiscal year operating budget assumed that maintenance/operations costs would be offset by rent consistent with that received in the previous fiscal year.

Recommendation:

Approval of lease.

Alternatives:

Continue lease negotiations or open the building lease to a competitive process.

Attachments:

Lease – Virginia Discovery Museum (2016)

RESOLUTION

APPROVING A LEASE OF CITY PROPERTY TO THE VIRGINIA DISCOVERY MUSEUM, INC.

WHEREAS, the Virginia Discovery Museum of Virginia, Inc. (“VDM”) (i) maintains its offices, and operates a museum, within certain premises at 524 East Main Street, Charlottesville, Virginia, and (ii) operates an outdoor children’s carousel, as the tenant under certain lease agreements with the City of Charlottesville, Virginia (City), and the term of such lease agreements expired June 30, 2016; and

WHEREAS, the City and VDM desire to enter into a new lease agreement for all of the space currently occupied by VDM, to take effect July 1, 2016, under the terms and conditions of a proposed Lease presented to and reviewed by this Council in conjunction with its consideration of this Resolution (“Proposed Lease”); now, therefore,

BE IT RESOLVED that City Council does hereby approve the Proposed Lease with VDM; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized: (i) to execute a final Lease with VDM, upon terms and conditions consistent with those set forth within the Proposed Lease and approved as to form by the City Attorney’s Office, and (ii) to act as the authorized agent of the City Council for the administration of the lease with VDM, for giving such approvals and notices, and for exercising such rights as may be authorized or reserved to the City within such Lease.

LEASE

THIS LEASE is made effective October 3rd, 2016, by and between THE CITY OF CHARLOTTESVILLE, VIRGINIA, a municipal corporation and political subdivision of the Commonwealth of Virginia (herein, "City"), and the **VIRGINIA DISCOVERY MUSEUM, INC.**, a nonprofit corporation organized and operating in accordance with the laws of the Commonwealth of Virginia (herein, "Tenant").

For in consideration of the terms, conditions and mutual covenants contained herein, the parties agree as follows:

1. **Lease of Property.** City hereby demises to Tenant, and Tenant hereby leases from City, certain real estate described as follows:

(A) the building located at 524 East Main Street, Charlottesville, Virginia, and all appurtenances thereunto pertaining (hereinafter, the "Premises"), and

(B) a portion of the public right-of-way in the 500 block of the City's Downtown Mall, enclosed by a fence, containing a carousel that measures approximately 9½ feet in diameter and 8½ feet in height (hereinafter, the "Carousel Space") in the City of Charlottesville, Virginia.

The demised real estate is more particularly described within *Exhibit A*, attached and incorporated herein by reference. Each party warrants that it has had adequate opportunity to inspect the condition of the Premises and Carousel Space, and that all such premises are in a condition acceptable to both parties and are to be demised under this Lease in an as-is condition.

The Premises and Carousel Space are demised together with a nonexclusive right to use of all sidewalks, elevators, entrances, hallways, stairs and the other areas within or appurtenant thereto which are designed for common use.

2. **Term.** The initial term of this Lease shall be for a period of five years ("Lease Term"), commencing on July 1, 2016 ("Commencement Date") and expiring at midnight on June 30, 2021 ("Expiration"), unless sooner terminated by the City or the Tenant in accordance with the terms and conditions of this lease. In the event that Tenant holds possession of the Premises or Carousel Space following the expiration or earlier termination of the term of this Lease, then Tenant shall become a tenant from month-to-month on the terms and conditions of this Lease, and rent shall continue as provided within this Lease.
3. **Rent.** Tenant shall pay to the City as Rent for the Premises and Carousel Space, in the total sum of Three Thousand Six Hundred Dollars (\$3,600.00) annually ("Rent"), payable in monthly installments of Three Hundred Dollars (\$300.00) each ("Monthly Installment"), without notice or demand therefor. The first Monthly Installment shall be due on the

Commencement Date; thereafter, a Monthly Installment shall be due to the City on or before the first day of every calendar month. In the event that a termination of this Lease takes effect on a day other than the last day of a month, that last month's Rent may be prorated accordingly by the City. Each Monthly Installment shall be paid to the City without any setoff or deduction whatsoever.

The City may increase the Rent once per year during the Lease Term, as follows: on or before April 1 of any year during the Lease Term, the City may give notice to the Tenant of a rent increase proposed to take effect on the July 1st next following the date of such notice. The amount of the rent increase shall be the greater of: (i) the percentage increase of the Consumer Price Index for All Urban Consumers for All Items [CPI-U (1982-1984 = 100)], if any, that occurred during the preceding twelve months, or (ii) three percent (3%) of the Rent payable at the time the City's notice is given.

4. **Security Deposit.** No security deposit shall be required of Tenant.
5. **Utilities.** Tenant shall be responsible for telephone, cable television, internet and other communications service/utility charges provided to or utilized by Tenant at the Leased Premises, and for water, electric and gas utility services delivered to the Leased Premises for or in connection with Tenant's use and occupancy.
6. **Use of Premises.**
 - (A) Tenant represents and warrants that it will utilize the Premises as office space for its operations, and as a children's museum (inclusive of activities as are reasonably and necessarily incidental thereto). The Premises shall not be utilized for any other purpose(s) without the advance written permission of the City.
 - (B) In its use and occupancy of the Premises and the Carousel Space, Tenant shall comply with (i) applicable laws, ordinances, and regulations. Tenant's obligations under this paragraph shall include, without limitation, compliance with health/sanitary, building and fire codes, and related regulations, applicable to the use and condition of the Leased Premises, and (ii) Tenant shall also comply with rules that may be established by City.
 - (C) Tenant shall not keep or have, on or within the Premises or the Carousel Space, any article or thing of a dangerous, flammable or explosive character which might present or increase the danger of fire.
 - (D) The museum located within the Premises, and the Carousel Space, shall be open to the public at least five (5) full days per week, during at least forty-eight (48) weeks per year. For purposes of this Lease, a "full day" shall mean at least six (6) hours of being open to the public. The Tenant shall give notice to the City of any substantial reduction in the days and times at which the Premises or Carousel Space are open to the public. As of the Commencement Date, the established days and times are: (i)

Monday-Saturday: open 10:00 a.m. to 5:00 p.m., and (ii) Sundays: open by reservation for private parties.

7. **Maintenance of Premises and Carousel Area.**

(A) City shall at its expense maintain and keep in good repair (i) the roof and exterior walls of the building in which the Premises are situated; (ii) plumbing and permanent electrical wiring serving the Premises; (iii) the heating, cooling and air conditioning systems, and plumbing fixtures that serve the Premises. Notwithstanding any other provision of this Lease, the cost of any maintenance, repair or replacement of the items referenced in (i)-(iii), above, required as a result of the negligence or willful act of Tenant, its employees, agents or invitees, shall be borne by Tenant. As part of its normal maintenance of the Downtown Mall, the City will remove tree limbs, bark and leaves, and snow, from within the Carousel Space, but not from the carousel itself. City will maintain the brick located within the Carousel Space.

(B) Tenant shall be responsible for routine, non-structural repairs and maintenance of the Premises, and for all repairs and maintenance of the improvements within the Carousel Space (the carousel, fence enclosing the Carousel Space, and any fixtures, signs and equipment installed by Tenant). Tenant shall keep the demised real estate in neat and clean condition, and shall provide and pay for all janitorial services for the interior and exterior of the Premises and the Carousel Space, including, but not limited to trash disposal and pest control services. Tenant shall keep and maintain the Premises and the Carousel Space in the condition in which they exist on the Commencement Date, with exception of reasonable wear and tear and damage caused by accidental fire or other casualty. Tenant shall be responsible for any maintenance and repair of the Premises and Carousel Space necessitated by or attributable to actions of Tenant, its invitees, agents or employees, in excess of reasonable wear and tear. Tenant shall keep the Leased Premises free of vermin.

8. **Furnishings, Fixtures, Equipment and other Property.**

(A) The Premises may contain certain fixtures and equipment, as may be reflected on building plans in the possession of the City (which plans are available for inspection by Tenant at all regular business hours) ("City Fixtures and Equipment"). Any additional furnishings, fixtures, equipment or other property required by Tenant may be installed by Tenant, at Tenant's expense, with the advance written approval of the City.

(B) All furnishings, fixtures, equipment and other property belonging to the Tenant, located on or about the Premises and Carousel Space, shall be there at the sole risk of the Tenant, and the City shall not be liable for the theft or misappropriation thereof, or for any damage or injury thereto, or for damage or injury to the Tenant or any of Tenant's officers, agents, or employees or to other persons or to any property caused by fire, explosion, water, gas, electricity, leaks from the roof or other portion of the building, the bursting or leaking of pipes, plumbing, electrical wiring and equipment

or fixtures of any kind, or by any act or neglect of other tenants or occupants of the building, or due to any other cause whatsoever, unless resulting from the willful acts of the City, its employees, agents or representatives for which it/ they may be held responsible under the laws of the Commonwealth of Virginia.

(C) Tenant shall give immediate notice to the City in case of fire or accident occurring within the Premises or Carousel Space, or of any defects, damages or injury therein or in any City Fixtures or Equipment.

9. **Alterations.** Alterations and improvements may be made by the Tenant to the Premises or Carousel Space, but only with the City's advance written consent. Upon the expiration or earlier termination of this Lease, Tenant's alterations and improvements shall be removed, and the Premises and Carousel Space returned to their condition as of the Commencement Date, unless the City agrees otherwise in writing.
10. **Signs.** Tenant shall not display or erect any lettering, sign, advertisement, sales apparatus or other projection in any manner or place such that they are visible from locations exterior to the Premises (excluding interior window and door glass), except with the advance written approval of City and, when required, with a valid certificate of appropriateness. All existing signs may remain.
11. **Taxes.** During the term of this lease, and unless otherwise exempt by state law or local ordinance, the Tenant shall be responsible for, and shall pay directly to the City of Charlottesville (A) any real estate taxes and assessments imposed on its share of the leasehold interest, and (B) personal property, business license or other taxes imposed by the Commonwealth of Virginia or the City of Charlottesville.
12. **Liability Insurance.** Tenant, at its sole cost and expense, shall obtain and keep in force comprehensive public liability insurance coverage in a minimum limit of no less than \$1,000,000 per occurrence, throughout the term(s) of this Lease. The policy shall include, without limitation, coverage for bodily injury and property damage to the Leased Premises. This insurance coverage shall be primary with respect to any other insurance maintained by the Tenant or City. ("Required Insurance")

Prior to the Commencement Date, and thereafter, upon request by the City, the Tenant shall provide the City with evidence, satisfactory to the City, of the Required Insurance.
13. **Assignments.** Tenant shall not assign any of its rights or obligations under this Lease, or sublease the Leased Premises, without the prior written consent of City.
14. **City's Right of Entry.** The City may enter the Carousel Space at any reasonable time, and the City may enter the Premises after giving reasonable advance notice to the Tenant, in either case for the purpose of inspecting the demised real estate, performing any work which City elects to undertake or is required by this Lease to perform, exhibiting the Premises for sale or lease, and for any other reasonable purposes consistent with the parties' rights and obligations under this Lease. In case of emergency, the City may enter the Premises without

advance notice to or consent of the Tenant; provided, however, the City shall give notice to the Tenant of an emergency entry within a reasonable amount of time.

15. **Indemnification**. Tenant shall indemnify City against all liabilities, expenses (including attorney's fees) and losses incurred by City as a result of (A) failure by Tenant to perform any covenant required to be performed by Tenant hereunder; (B) any accident, injury or damage which shall happen in or about the Premises or Carousel Space resulting from any condition, action or operation of the Tenant; (C) failure to comply with any laws, ordinances, regulations or requirements of any governmental authority; (D) any mechanics' lien or security agreement or other lien filed against the Premises, the Carousel Space, or fixtures and equipment therein belonging to City; and (E) any negligent act or omission of Tenant, its officers, employees, and agents.

16. **Right of First Refusal**. If during the Term of this Lease the City receives a bona fide offer from a third party to purchase the Premises, the City shall not accept such offer without first offering the Premises for sale to the Tenant on the same terms and conditions contained in the third-party's offer ("right of first refusal"). Tenant shall have a period of 60 days from the date of such offer, or the time period referenced in the offer, whichever is less, to notify the City of its intention to exercise this right of first refusal. If Tenant declines to exercise this right, or fails to give notice to the City within the required time period, then the City shall have the right to terminate this Lease upon ninety (90) days' advance written notice to Tenant.

17. **Damage by Fire or other Casualty**. If the Premises or Carousel Space shall be rendered untenable by fire or other casualty:
 - (A) City may at its sole option terminate this Lease as of the date of such fire or other casualty, upon 30 days' advance written notice to Tenant. In the event of such termination, rent shall be equitably adjusted.

 - (B) If the City elects not to terminate this under the provisions of subparagraph (A) above, Tenant's rent shall be equitably apportioned according to any space rendered untenable, and City shall at its own cost restore the space to substantially its same condition immediately preceding such loss, provided that the cost of such work shall not exceed the insurance proceeds received by City on account of such loss, and the City shall not be required to pay for, restore or replace any furnishings, fixtures, or equipment of the Tenant. During the period in which the any demised space(s) are untenable, the Rent shall be suspended, and the Lease Term may, at the Tenant's option, be extended by an equivalent period of time. If City fails to substantially complete the restoration of the demised spaces within 90 days after such fire or other casualty (subject to allowance for delay that is not the fault of either City or Tenant) then either party may terminate this Lease by giving written notice to the other party within 15 days following the expiration of the 90-day restoration period.

18. **Default; Surrender.**

- (A) Each of the following shall constitute an Event of Default: (i) if the Premises shall be vacated by Tenant prior to the end of the Lease period, or if Tenant is absent from the Premises for more than 10 consecutive days; (ii) if Tenant files a voluntary petition in bankruptcy, or is adjudged bankrupt or insolvent by any federal or state court, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal or state law or regulation relating to bankruptcy, insolvency or other relief for debtors, or consents to or acquiesces in the appointment of any trustee, receiver or liquidator, or makes any general assignment for the benefit of creditors; (iii) if any monthly installment of Rent as herein called for remains overdue and unpaid for 30 days; (iv) failure of Tenant to maintain its status as a charitable, non-profit organization; and (v) if there shall be a default by Tenant in the performance for any other material obligation under this Lease agreement for more than 10 days following written notice thereof from City.
- (B) In the event of an Event of Default, City may, at its option, declare this Lease to be terminated and canceled, and may take possession of the Premises and Carousel Space. In such case, City may at its option, re-let the Premises and Carousel Space, or any part thereof, as agent for Tenant, and Tenant shall pay City the difference between the rent herein provided for during the portion of the Lease term remaining at the time of re-possession and the amount, in any, received under such relating for such portion of the Lease term.
- (C) Upon the expiration or earlier termination of the initial term of this Lease, or of any renewal term, Tenant shall quit and surrender the Premises and Carousel Space to City in good order and condition, ordinary wear and tear excepted. Tenant shall, on or prior to the Expiration Date or earlier termination date, remove all of its property (inclusive of all Tenant-owned furnishings, fixtures, equipment and all other property). Thereafter, within two weeks of such date, Tenant shall repair all damage to the Premises and Carousel Space caused by such removal and make restoration in accordance with the terms and conditions of this Lease. Any property of the Tenant that remains on the Premises or within the Carousel Space after the expiration or termination of this Lease may be treated by the City as abandoned property. In the event that such remaining property is worth (collectively) less than two thousand dollars, it shall collectively be deemed abandoned and may be immediately removed by the City disposed of as trash.

19. **Miscellaneous covenants.** Tenant shall faithfully observe and perform the following covenants, in addition to the other terms, conditions and covenants of this Lease:

- (A) Tenant shall not do or permit anything to be done in the Premises or Carousel Space, or bring or keep anything therein, which will or may: increase the rate of fire insurance of the building of which the demised real estate is a part, or obstruct or interfere with the rights of any other tenant(s).

- (B) Tenant shall not keep any animal(s) in or about the Premises or Carousel Space.
- (C) Tenant agrees to keep all windows and exterior doors closed in the Premises in order to assure proper functioning of heating and air conditioning systems and to prevent damage to the Premises, and upon failure to do so, agrees to pay for any damage caused thereby.
- (D) Tenant shall observe reasonable rules and regulations established from time to time by the City for the promotion of the convenience, safety or welfare of tenants and invitees, after being given notice thereof by the City.

20. **Quiet Enjoyment**. Upon payment by Tenant of all Rent and other sums provided to be paid in this Lease, and the observance and performance of all of the covenants, terms and conditions on Tenant’s part to be observed and performed, Tenant shall have the peaceful and quiet use of the Premises, and all rights, servitudes and privileges belonging to, or in any way appertaining thereto, or granted hereby for the terms stated, without hindrance or interruption by City or any other person or persons lawfully claiming by, through or under the City; subject, nevertheless, to the terms and conditions of this Lease.

21. **Notices**. Notices under this Lease shall be in writing, signed by the party giving such notice, and shall be hand-delivered or sent by: (i) United States Mail, or (ii) electronic mail, addressed to a party at its address given below, or to such other address as a party may have furnished to the other by written notice. Any notice sent by U.S. mail shall be deemed to have been given as of the time-said notice is deposited in the United States Mail. The parties’ designated representatives and addresses for purposes of notices and communications pertaining to this Lease are as follows:

City: City of Charlottesville- Attention: Maurice Jones, City Manager
 Mail: P.O. Box 911
 Delivery: 605 E. Main Street
 Charlottesville, Virginia 22902
 Email: citymgr@charlottesville.org

Tenant: Virginia Discovery Museum—Attention: Lindsay Jones, Director of Operations
 Mail: 524 East Main Street
 Delivery: 524 East Main Street
 Charlottesville, Virginia 22902
 Email: director@vadm.org

22. **Governing Law**. This Lease shall be construed under and governed by the laws of the Commonwealth of Virginia.

23. **Waiver**. Failure of the City to insist, in any one or more instances, upon a strict performance of any term, condition or covenant of this Lease, or to exercise any right or option herein provided, shall not be construed as a waiver or relinquishment of such right or option, and

such right or option shall continue and remain in full force and effect. No waiver by the City shall be effective unless set forth in a writing signed by an authorized representative of the City.

24. **Exhibits.** The following exhibit(s) are attached and incorporated herein by reference, as if set forth herein verbatim: *Exhibit A (Floor Plan Showing Leased Premises)*
25. **Entire and Binding Agreement.** This Lease sets forth the entire agreement between the parties, and there are no other terms, conditions, agreements or understandings between the parties, respecting the matters which are the subject of this Lease. This Lease is binding upon and shall inure to the benefit of the parties and their respective heirs, successors and assigns.

WITNESS the following signatures and seals as of the date first above written.

City:
CITY OF CHARLOTTESVILLE, VIRGINIA

BY: _____
Maurice Jones, Its City Manager

Tenant:
VIRGINIA DISCOVERY MUSEUM, INC.

BY: _____

Print Name: _____

Its: _____

EXHIBIT A

Description of Premises

The property located at 524 East Main Street on the Downtown Mall, designated on 2016 City Real Estate Tax Map 53 as Parcel 70, including the building, and all City-owned furnishings, fixtures and equipment located therein, and all appurtenances thereunto pertaining.

Description of Carousel Space

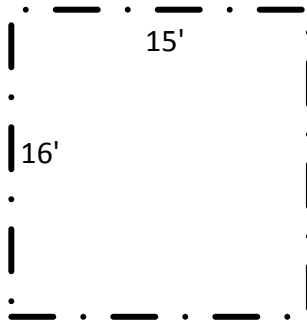
All that area of public right-of-way land on the Downtown Mall, located in the 500 block of East Main Street, encompassing approximately 990 square feet of space and located directly in front of 524 East Main Street, as shown on a drawing dated August 26, 2016, attached.

6th Street NE

Market Street Parking Garage
513 E Main Street

Charlottesville City Hall
605 E Main Street

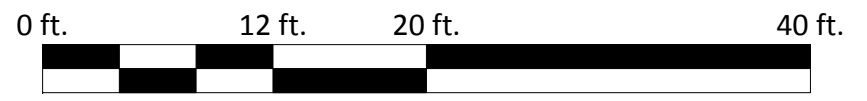
E Main Street



Carousel Space

512-520 E Main Street

524 E Main Street



Virginia Discovery Museum Carousel Space
August 26, 2016

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



| | |
|-------------------------|--|
| Agenda Date: | September 19, 2016 |
| Action Required: | Public Hearing and Approval |
| Staff Contacts: | Tierra Howard, Grants Coordinator |
| Presenter: | Tierra Howard, Grants Coordinator |
| Title: | Consolidated Annual Performance Evaluation Report (CAPER) & Setting Priorities for Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) funds for Program Year 17-18 (Public Hearing) |

Background:

This public hearing is intended to serve as a forum for public comment on the Program Year (PY) 15 CAPER and to aid City Council and staff in gathering information about the City's needs. Goals and priorities determined as a result of this public hearing will be the framework for funding recommendations made by the CDBG Task Force for the funding available July 2017. Based on current projections, the City can expect CDBG funding amounts similar to or less than that received in PY16 or \$371,309. Last year, HOME funds were expected to be dramatically cut and the HOME Consortium was likely to receive \$0 in funding in FY PY16. However, the HOME budget was restored and the City received \$58,520 for PY16. The City can expect HOME funding to be similar or less than that received in PY16.

Current Year's Plan: The priorities set by Council for PY16, as determined at the September 21, 2015 public hearing, were workforce development, microenterprise assistance, access to quality childcare, and down payment assistance. For PY16, 20% of the CDBG entitlement was allocated to Administration and Planning, which pays for the Grants Coordinator position and other grant support fees, and 15% of the balance was devoted to social programs. The remaining funds were set-aside for economic development projects and for the 10th & Page Priority Neighborhood.

Consolidated Annual Performance Report (CAPER) Highlights:

In PY15, CDBG projects benefited 683 people. Projects included technical assistance for 47 microenterprises and entrepreneurs, three public facility improvements, one acquisition (transitional housing unit), re-entry services, childcare scholarships, and workforce development programs. For economic development projects, data on accomplishments at the end of PY15

have been collected, however, it is expected that these businesses will have successes and growth far after PY15. Some infrastructure improvements have been completed within the 10th & Page neighborhood; however, project outcomes cannot be reported until the project is fully complete. Of the 683 beneficiaries, 26% were extremely low-income, 70% were low-income, 4% were moderate income, 54% were white, 42% were black, and 4% other. The table below outlines the activities, goals, and outcomes for the PY15 CDBG program.

| CDBG Activities - Program Year 2015 | | Goal | Actual |
|--|------------------------|-------------|---------------|
| Support Job Improvement | | | |
| Public service activities other than Low/Moderate Income Housing Benefit | Persons Assisted | 143 | 165 |
| Businesses assisted | Businesses Assisted | 10 | 47 |
| Support Programs to Assist Special Needs | | | |
| Public Facility or Infrastructure Activities other than Low/Moderate | Persons Assisted | 3400 | 498 |
| Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit | Households Assisted | 1 | 1 |
| Support Homeless and Transition to Independence | | | |
| Public service activities other than Low/Moderate Income Housing Benefit | Persons Assisted | 75 | 83 |
| Housing for Homeless added | Household Housing Unit | 1 | 1 |
| Promote Jobs and Housing for Special Needs | | | |
| Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit | Households Assisted | 1 | 1 |
| Conduct Training Sessions | | | |
| Public service activities other than Low/Moderate Income Housing Benefit | Persons Assisted | 13 | 28 |
| Businesses assisted | Businesses Assisted | 20 | 49 |

For PY15, 36 HOME projects were completed: 6 rental projects, consisting of 8 units; 12 homebuyer projects, and 18 homeowner rehabilitation projects, for a total of 38 units. The total includes HOME projects closed in IDIS with vacant units in past years that were re-opened to enter beneficiary data. These included 4 rental projects, consisting of 5 units, and 5 homebuyer projects. Of the 38 beneficiaries, 29% were extremely low-income and 71% were low-income, 50% were white, 42% were black, and 8% other. The table below outlines the activities, goals, and outcomes for the PY15 HOME program.

| City of Charlottesville HOME Activities - Program Year 2015 | Goal | Actual |
|---|-------------|---------------|
| Provide Down payment Assistance to 4 families through Piedmont Housing Alliance and Habitat for Humanity. | 4 | 10 |
| Rehabilitate 6 owner-occupied homes | 6 | 7 |
| Rental | 0 | 1 |
| TOTAL | 10 | 18 |
| HOME Consortium Activities - Program Year 2015 | | |

| | | |
|----------------------|-----------|-----------|
| Homebuyer Assistance | 10 | 12 |
| Homeowner Rehab | 31 | 18 |
| Rental | 5 | 8 |
| TOTAL | 46 | 38 |

Through CDBG, HOME, and local housing programs, much has been done over the last fiscal year to maintain and grow affordable housing across the HOME Consortium. The full PY15 CAPER Draft Report can be found on the City’s website by clicking [here](#).

FY 2017-2018 is the fifth year of the five year Consolidated Plan (FY 2013 – 2017). This plan was approved in May 2013. The Consolidated Plan sets forth plans for CDBG and HOME funding. This document provides information to encourage communities to look at housing and community development comprehensively, so that projects undertaken have a good fit with the community's needs. The next Consolidated Plan is due for submission in 2018.

Discussion

This fiscal year’s adopted budget is attached to show how funding has been allocated to the different funding categories.

Following the public hearing, staff is asking Council to make the following decisions:

- 1. Set priorities for CDBG & HOME Programs** – Council is asked to determine what its priorities are for FY 17-18. Having specific priorities helps the CDBG Task Force ensure that the diminishing funds are targeted towards projects that meet the goals of Council, the Consolidated Plan and the Growing Opportunities Report. The high priority needs identified in the Consolidated Plan include: risk of homelessness, lack of jobs that pay a sufficient wage, rental cost-burden, lack of training needed by employers, high cost home purchase, transportation access barriers, housing options for special needs, lack of childcare options, and lack of shelter for homeless. An emphasis on workforce development, access to quality childcare, microenterprise assistance, homeowner rehab and down payment assistance helps meet these goals and needs and are consistent with Council goals, the Consolidated Plan, and the Growing Opportunities Report.
- 2. Determine if a Priority Neighborhood should be designated** –10th and Page has been the Priority Neighborhood for the past three fiscal years. Last year, Council designated 10th & Page as the Priority Neighborhood for FY 17-18. Historically, Priority Neighborhoods receive three fiscal years of funding, however, 10th & Page will be the Priority Neighborhood for a fourth year. In the past, priority neighborhood funds were set at \$200,000, however, reduced entitlement amounts would make this amount more than 50% of the anticipated budget. Last year, the Priority Neighborhood budget was set at 69% of the total entitlement amount or about \$258,879. As a result of program income received and reprogramming of funds from closed projects, about the same amount of funds were applied to the Priority Neighborhood this fiscal year.

Council normally names only one Priority Neighborhood at a time. In order to ensure plenty of time for citizen engagement and coordination with the various City committees, staff will begin working on the next Priority Neighborhood for FYs 17-18, 18-19, and 19-20. Last year, Council approved Belmont as the next neighborhood in the 3-year cycle. Belmont is located within the Strategic Investment Area (SIA).

3. **Determine if CDBG funds should be set aside for Economic Development** – Last year, the Economic Development budget was set at 9% of the total entitlement amount or about \$45,000; however, only \$34,500 in eligible projects was recommended for funding. These funds are being used to help qualified entrepreneurs start businesses as well as help existing businesses improve their capacity.
4. **Determine the percentage for Public Service Projects** – The maximum amount of our budget that can be allocated towards Public Service Programs is 15% as determined by HUD. Council can decide to keep allocation at 15% or designate a lower percentage. The current budget for Public Service projects is about \$55,700.
5. **Administration and Planning** – This amount is capped by HUD at 20% of the total CDBG budget. The current budget for admin and planning is just over \$74,000.
6. **Additional Guidelines** - Any other guidelines or directions Council may wish to give in determining how CDBG and HOME funds should be spent.

Community Engagement:

The CDBG Task Force will meet over the winter to review Housing and Public Service projects and make recommendations for funding to Council in spring 2017. The City's Strategic Action Team will review Economic Development applications. A 10th and Page Priority Neighborhood Task Force was formed and made recommendations that could use all funding available. The 10th & Page Priority Neighborhood Task Force will continue to meet to re-examine priorities. Notice of the public hearing for the initial recommendations and notice of a public comment period for the CAPER was advertised in the newspaper. The public comment period for the CAPER is open from September 3rd to September 19th.

Alignment with City Council's Vision and Strategic Plan

This agenda item aligns directly with Council's vision for Charlottesville to have **Economic Sustainability, Quality Housing Opportunities for All, and A Connected Community**. Projects also have the potential to meet many of the objectives listed in the first three goals of the City's Strategic Plan: Enhance the self-sufficiency of our residents; be a safe, equitable, thriving and beautiful city; and, have a strong, diversified economy.

Budgetary Impact:

HOME funds will require a 25% local match. In previous years, this match came from the Charlottesville Affordable Housing Fund. There is no impact to the general fund regarding CDBG funds.

Recommendations:

Staff Recommends:

- Approving the 15% maximum allocation allowed for Public Service Projects and approving the 20% maximum allocation allowed for Admin and Planning.
- Public Service funds remain citywide, but that non-profit partners are made aware of the Priority Neighborhood and encouraged to recruit beneficiaries from that area.
- \$45,000 be set aside for Economic Development Activities.
- The remaining estimated CDBG budget, \$200,000, goes towards Priority Neighborhood funding.
- Staff recommends Belmont be the next Priority Neighborhood in the rotation, as approved previously by City Council.
- Staff recommends that any Public Service, Housing or Economic Development activity must meet the goals and recommendations of the Growing Opportunities report in addition to the Consolidated Plan.
- Staff recommends, for HOME funds, if there is any program income or reprogramming available, those funds go towards housing activities to support down payment assistance and homeowner rehab.

Alternatives:

Alternatives include funding the Priority Neighborhood, Economic Development, Public Service, and Housing programs at different percentages or restricting beneficiaries to specific areas of the City. Specifically, Council could choose to fund the Priority Neighborhood at less than the recommended \$200,000. This would allow more funding available for Economic Development and housing projects.

Attachments:

Proposed Budget

Resolution

Current Budget

Eligible CDBG and HOME Activities – click [here](#) to view list

CDBG Priority Neighborhoods Map – click [here](#) to view map

Proposed FY 17-18 CDBG & HOME Budget

| | FY 16-17 Funding | Proposed FY 17-18 Funding | Approx. Percent Change |
|----------------------------------|-------------------|---------------------------------------|------------------------|
| Priority Neighborhood | \$243,128.44 | \$200,000 (or remaining EN available) | -18% |
| Economic Development | \$34,500 | \$45,000 | 30% |
| Public Service | \$55,696 (15% EN) | 15% EN | 0 |
| Admin | \$74,261 (20% EN) | 20% EN | 0 |
| Housing | \$0 | \$0 | 0 |
| CDBG Entitlement (EN) | \$371,309 | \$371,309 | 0 |
| HOME Entitlement (plus match) | \$73,150 | \$73,150 | 0 |
| Program Income and Reprogramming | \$36,276.44 | \$20,000 | -45% |

Note: As proposed, if CDBG funds are decreased, Priority Neighborhood funding would be decreased. Also, there is no way to predict how much program income will be received during the fiscal year; \$20,000 is a conservative estimate based on prior years.

**A RESOLUTION
COUNCIL PRIORITIES
FOR CDBG and HOME FUNDS
FY 17-18**

WHEREAS, the City of Charlottesville is a U.S. Department of Housing and Urban Development (HUD) Entitlement Community for the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) programs and as such expects to receive an award of funding July 1, 2017; and

WHEREAS, in accordance with the City of Charlottesville's Citizen Participation Plan for HUD funding, the CDBG Task Force composed of citizen and community representatives will need to review potential projects and make recommendations for funding in Spring 2017;

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the priorities and spending allowances for FY 2017-2018 shall be as follows:

- Council's priorities for the CDBG and HOME program for FY 17-18 shall be _____
- For FY 17-18, \$_____ CDBG entitlement shall be set aside for Economic Development
- For FY 17-18, the Priority Neighborhood shall be ___ and the allocation shall be \$_____ of the total CDBG entitlement. If the CDBG entitlement received is less than the estimate amount of \$_____, this amount will be decreased accordingly. The next Priority Neighborhood shall be _____
- The CDBG Admin and Planning budget shall be set at 20% of the total CDBG entitlement.
- The Social Programs budget shall be set at 15% of the total CDBG entitlement.

2016-2017 CDBG BUDGET ALLOCATIONS
RECOMMENDED BY CDBG TASK FORCE and SAT: 1/13/16, 1/29/16, 2/9/16, 2/8/16, and 2/11/16
RECOMMENDED BY PLANNING COMMISSION: 3/8/2016
APPROVED BY CITY COUNCIL: 5/16/2016
AMENDED BY CITY COUNCIL: 7/5/2016

| | | | |
|-------------|--|---|----------------------|
| I. | PRIORITY NEIGHBORHOOD | | |
| | A. 10 th and Page – | | \$243,128.44* |
| II. | ECONOMIC DEVELOPMENT PROJECTS | | |
| | A. Community Investment Collaborative Scholarships | | \$ 12,500 |
| | B. Seedplanters Women Entrepreneur Academy | | \$ 10,000 |
| | C. Office of Economic Development Small Business Development | | \$ 12,000 |
| | | ECONOMIC DEVELOPMENT TOTAL: | \$34,500 |
| III. | PUBLIC SERVICE PROJECTS | | |
| | A. OAR – Reentry Services | | \$ 14,856 |
| | B. United Way – Child Care Subsidies | | \$ 14,106 |
| | C. Office Economic Development – GO Driver | | \$ 12,021 |
| | D. City of Promise – Enrolled to Launch Childcare Access Program | | \$ 9,857 |
| | E. Community Attention - Youth Internship Program | | \$ 4,856 |
| | | SOCIAL PROGRAMS TOTAL: | \$55,696 (15% |
| EN) | | | |
| IV. | ADMINISTRATION AND PLANNING: | | |
| | A. Admin and Planning | | \$74,261 (20% |
| EN) | | | |
| | | GRAND TOTAL: | \$407,585.44 |
| | | ESTIMATED NEW ENTITLEMENT AMOUNT: | \$371,309 |
| | | ESTIMATED EN AVAILABLE AFTER PI APPLIED: | \$29,821.79 |
| | | REPROGRAMMING: | \$6,454.65 |

* Funding includes program income/reprogrammed funds

2016-2017 HOME BUDGET ALLOCATIONS

| | | | |
|----|-------------------------|---|-----------------|
| A. | AHIP – Homeowner Rehabs | | \$73,150* |
| | | GRANDTOTAL: | \$73,150 |
| | | ENTITLEMENT AMOUNT: | \$58,520 |
| | | ESTIMATED EN AVAILABLE AFTER PI APPLIED: | \$0.00 |
| | | REPROGRAMMING: | \$0.00 |
| | | LOCAL MATCH: | \$14,630 |

* Only Entitlement funds (except Admin and Planning amount) require local match

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



| | |
|------------------|---|
| Agenda Date: | September 19, 2016 |
| Action Required: | Public Hearing / Vote on Resolution |
| Presenter: | Mike Signer, Mayor |
| Staff Contacts: | Maurice Jones, City Manager Paige Rice, Clerk of Council |
| Title: | Matters by the Public Procedures |

Background:

At their February 16, 2016 meeting the City Councilors passed a resolution allowing for a significant change in the way public comment would be handled at the beginning of each meeting. The change in the Matters by the Public procedures was an attempt to expand opportunities for speakers to sign up for the first public comment period by allowing requests in advance by email and/or telephone. A public hearing is planned for this evening.

Discussion:

A random selection process for speaking slots for the first Matters by the Public section was agreed to as follows:

- Each request that comes in over email, phone, or in person by 9:00 a.m. the day of the Council meeting is given a number.
- A random number generator located at the web site www.random.org generates 12 random numbers in the range of total sign-ups; for example, 30 people sign up, and 12 random numbers are generated between 1 and 30.
- The 12 selected numbers are given speaking slots.
- The remaining people who signed up to speak are placed on a wait-list in the order that they contacted the Clerk.
- Both the list of assigned speakers and the wait-list will be published on the City's website by 12:00 noon on the day of Council meetings.
- The second Matters by the Public section will remain in place, and any remaining speakers on the wait-list from the first section will be called first.
- It is proposed that this process be put into place for a pilot period of six months, after which it will be evaluated by Council.

As part of the resolution approving the change in procedures, the City Council agreed to review the new procedures after a six month period of time to determine whether to continue the practice or find an alternative.

There have been very few glitches in the new process as speakers have grown accustomed to the revised procedures. Over the course of 12 Council meetings, a total of 130 advanced sign-ups were registered. Residents were also able to sign up beginning at 6:30 p.m. the day of the meeting for any remaining slots, which has also worked well. The waiting list was used three times; for the remaining nine meetings, 12 or less speakers registered, and no waiting list was used. The chart below shows speaker data for the first Matters by the Public for each Council meeting since the revised procedures were implemented:

| <u>Council Meeting Date</u> | <u># sign-ups</u> | <u># in-person sign-ups</u> | <u>Total # speakers</u> |
|-----------------------------|-------------------|-----------------------------|-------------------------|
| 7-Mar | 25 | n/a; sheet full | 12 |
| 21-Mar | 19 | n/a; sheet full | 12 |
| 4-Apr | 12 | n/a; sheet full | 12 |
| 18-Apr | 16 | n/a; sheet full | 12 |
| 2-May | 8 | 1 | 9 |
| 16-May | 9 | 0 | 9 |
| 6-Jun | 12 | n/a; sheet full | 12 |
| 20-Jun | 9 | 2 | 11 |
| 5-Jul | 9 | 1 | 10 |
| 18-Jul | 6 | 1 | 7 |
| 15-Aug | 3 | 9 | 12 |
| 6-Sep | 2 | 5 | 7 |

Alignment with City Council’s Vision and Strategic Plan:

This supports the City Council’s vision areas to be a *Community of Mutual Respect* and to have a *Smart, Citizen-Focused Government*. It contributes to Goal 4 of the Strategic Plan, to *Be a Well-Managed and Successful Organization*, and objective 4.4, continue strategic management efforts. It also contributes to Goal 5, *Foster Strong Connections*, and objective 5.3 to promote community engagement.

Alternatives:

Council may choose to continue operating under the Matters by the Public Procedures adopted in February, revert to the previous practice for Matters by the Public or develop a new set of procedures.

Attachments:

Matters by the Public Resolution

RESOLUTION
Matters by the Public during City Council Meetings

WHEREAS, the Charlottesville City Council, in consultation with peers, research of best practices across the state, and the appropriate City staff members, seeks to create an equitable and accessible process for citizen participation in Matters by the Public; and

WHEREAS, the City Council established the following process for Matters by the Public in February of 2016:

- (a) Members of the public may request one of twelve speaking slots for the first session of Matters by the Public by e-mail, telephone, or in person with the Clerk by 9:00 a.m. on the day of the meeting;
- (b) Through a random and transparent process, which shall be publicly described and provided to the public, the Clerk shall distribute and publicize the speaking slots by 12:00 noon on the day of the meeting;
- (c) A second session of Matters by the Public will also be held at the end of each regular meeting and is not limited by number of speakers.
- (d) For other public hearings, a sign-up sheet will be provided by the Clerk at the meeting.; and

WHEREAS, the newly established procedures have been successful in expanding the opportunity for our speakers to participate in Matters by the Public; and

WHEREAS, the City Council committed to reviewing the Matters by the Public Procedures after a six month trial period; and

WHEREAS, the City Council has reviewed the effectiveness of the Procedures and found them to be a success;

NOW THEREFORE BE IT RESOLVED that the City Council agrees to formally adopt the Matters by the Public Procedures from this day forward.

Signed this 19th day of September 2016.

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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



| | |
|-------------------------|---|
| Agenda Date: | September 19, 2016. |
| Action Required: | Approve Resolution. |
| Presenter: | Khristina S. Hammill, Financial and Debt Manager. |
| Staff Contacts: | Christopher V. Cullinan, Director of Finance. Khristina S. Hammill, Financial and Debt Manager. |
| Title: | Amendment to Financing Agreement between the City of Charlottesville, Virginia and The Virginia Resources Authority. |

Background:

The Stadium Road Sanitary Sewer Collector project was approved in 2009 by Council and replaced approximately 8,600 linear feet of 15-inch to 24-inch sanitary sewer main within the City of Charlottesville. The project was awarded \$5,030,409 in State Revolving Funds (SRF) which was authorized by Virginia Resources Authority (VRA) and Virginia Department of Environmental Quality (DEQ). This funding was secured with the City's issuance of the General Obligation Public Improvement Bond, Virginia Resources Authority Series 2010 (Virginia Water Facilities Revolving Fund), in the principal amount of \$5,030,409 to fund the project.

Discussion:

The City, with the consent of VRA and the Virginia Department of Environmental Quality, proposes to amend the Financing Agreement to decrease the Cost of Funds on the 2010 Bond and to reduce the debt service payments. The savings from the refunding are estimated to be \$24,000 a year or \$300,000 over the remaining life of the bonds.

Alignment with City Council's Vision and Strategic Plan:

This debt refinancing contributes to Goal 4 of the Strategic Plan, to be a well-managed and successful organization, and objective 4.2, to maintain strong fiscal policies.

Community Engagement:

A public hearing was held for the original financing however, there has been no community engagement for this refinancing.

Budgetary Impact:

Amending the Financing agreement will reduce the interest rate on the bonds and will allow the

City to reduce its annual debt service costs.

Recommendation:

Staff recommends approval of the resolution.

Alternatives:

If the resolution is not approved, the City could continue with the existing financing agreement and continue to pay the higher debt service costs.

Attachments:

None.

COVERING CERTIFICATE FOR RESOLUTION.

The undersigned Clerk of the Council (the “Council”) of the City of Charlottesville, Virginia (the “City”), certifies as follows:

1. Attached hereto is a true, correct and complete copy of a resolution entitled “RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO FINANCING AGREEMENT BETWEEN THE CITY OF CHARLOTTESVILLE, VIRGINIA, AND THE VIRGINIA RESOURCES AUTHORITY, AS ADMINISTRATOR OF THE VIRGINIA WATER FACILITIES REVOLVING FUND, AND AMENDMENTS TO THE CITY’S GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND, VIRGINIA RESOURCES AUTHORITY SERIES 2010 (VIRGINIA WATER FACILITIES REVOLVING FUND), FOR THE PURPOSE OF DECREASING THE COST OF FUNDS THEREON” (the “Resolution”). The Resolution was adopted at a regular meeting of the Council held on September 19, 2016, by a majority of all members of the Council by an affirmative roll-call vote.

2. The Council meeting at which the Resolution was adopted was held at the time and place established by the Council for its regular meetings.

3. The minutes of such meeting reflect the attendance of the members and their votes on the Resolution as follows:

| Member. | Attendance (Present/Absent). | Vote (Aye/Nay/Abstain). |
|--------------------------|--|-----------------------------------|
| Mike Signer, Mayor. | | |
| Wes Bellamy, Vice Mayor. | | |
| Bob Fenwick. | | |
| Kathy Galvin. | | |
| Kristin Szakos. | | |

4. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

WITNESS my signature and the seal of the City of Charlottesville, Virginia, this ____ day of September, 2016.

(SEAL).

Clerk of the Council of the City of Charlottesville,
Virginia.

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO FINANCING AGREEMENT BETWEEN THE CITY OF CHARLOTTESVILLE, VIRGINIA, AND THE VIRGINIA RESOURCES AUTHORITY, AS ADMINISTRATOR OF THE VIRGINIA WATER FACILITIES REVOLVING FUND, AND AMENDMENTS TO THE CITY'S GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND, VIRGINIA RESOURCES AUTHORITY SERIES 2010 (VIRGINIA WATER FACILITIES REVOLVING FUND), FOR THE PURPOSE OF DECREASING THE COST OF FUNDS THEREON.

WHEREAS, on September 16, 2010, the City of Charlottesville, Virginia (the "City"), issued its General Obligation Public Improvement Bond, Virginia Resources Authority Series 2010 (Virginia Water Facilities Revolving Fund), in the principal amount of \$5,030,409 (the "2010 Bond"), to U.S. Bank National Association, as successor trustee (the "Trustee"), for the benefit of the Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund ("VRA"), pursuant to the terms of a Financing Agreement dated as of September 1, 2010 (the "Financing Agreement"), between the City and VRA;

WHEREAS, the City, with the consent of VRA and the Virginia Department of Environmental Quality, proposes to amend the Financing Agreement to decrease the Cost of Funds on the 2010 Bond and to reduce the debt service payments thereunder;

WHEREAS, there have been presented to this meeting the following documents:

(a) a draft of an Amendment to Financing Agreement (the "Amendment Agreement") between the City and VRA, which, among other things, amends certain provisions of the Financing Agreement, including the debt service payments due under the 2010 Bond; and

(b) the form of an Allonge (the "Allonge"), which shall be attached to the 2010 Bond, that evidences the reduction in debt service payments of the 2010 Bond;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA:

1. Authorization of Amendment Agreement and Form of Allonge. The Council of the City (the "Council") hereby finds that the reduction of the debt service payments due under the 2010 Bond will promote the health, safety, welfare, morals and prosperity of the residents served by the City and will promote the governmental purposes for which the City was formed. The Council hereby determines that it is in the best interests of the City to execute and deliver the Amendment Agreement and the Allonge.

2. Approval of Amendment Agreement. The form of the Amendment Agreement submitted to the Council at this meeting is hereby approved. The Mayor and City Manager, either of whom may act, are hereby authorized to execute the Amendment Agreement in substantially such form, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Mayor or City Manager, whose approval shall be evidenced conclusively by the execution and delivery thereof.

3. Execution of Allonge. The form of the Allonge submitted to the Council at this meeting is hereby approved. The Mayor is hereby authorized and directed to execute and deliver the Allonge in substantially such form to reflect the same amended terms as contained in the Amendment Agreement, together with such other completions, omissions, insertions and changes not inconsistent with this Resolution and the Amendment Agreement as may be approved by the Mayor, whose approval shall be evidenced conclusively by the execution and delivery thereof. The Clerk of the Council is hereby authorized to affix the seal of the City on the Allonge and attest thereto.

4. Arbitrage Covenants. The City reaffirms its covenant in the Financing Agreement (as amended by the Amendment Agreement) not to take or omit to take any action the taking or omission of which will cause the Series 2010B VRA Bonds (as defined in the Financing Agreement) to be “arbitrage bonds,” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations applicable to the Series 2010B VRA Bonds (the “Code”), or otherwise cause interest on the Series 2010B VRA Bonds to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law.

5. Private Activity Bond Covenants. The City reaffirms its covenant in the Financing Agreement (as amended by the Amendment Agreement) not to permit the proceeds of the 2010 Bond or the facilities financed therewith to be used in any manner that would result in (a) 5% or more of such proceeds or facilities being used in any trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds or facilities being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any person other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if VRA and the City receive an opinion of nationally recognized bond counsel that compliance with any such covenants need not be complied with to prevent the interest on the Series 2010B VRA Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the City need not comply with such covenants.

6. Other Actions. All other actions of officers of the City in conformity with the purposes and intent of this Resolution and in furtherance of the execution and delivery of the Amendment Agreement and the Allonge are ratified, approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and other instruments that such officer may consider necessary or desirable in connection with the transactions authorized pursuant to this Resolution.

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

8. Effective Date. This Resolution shall become effective immediately.

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



| | |
|------------------|---|
| Agenda Date: | September 19, 2016 |
| Action Required: | Approval of Resolution |
| Presenter: | Leslie Beauregard, Assistant City Manager |
| Staff Contacts: | Leslie Beauregard, Assistant City Manager Paige Rice, Clerk of Council |
| Title: | Open Data Policy Proposal |

Background:

Open Data is data made publicly available for anyone to access and use without making a formal request to the government. Open Data is:

- Available to everyone, online, free, with no registration required
- Available without legal restrictions on use and reuse
- Available in forms and formats that make it maximally useful for the broadest range of uses and users.

Many local governments have begun proactively sharing large numbers of datasets. The City of Charlottesville is starting to explore such an initiative, and this agenda memo and resolution serve as a launching point.

Discussion:

There are many benefits and advantages to Open Data, one of which is providing data to a wide range of potential users, including citizen activists, businesses, the research community and government employees. Some other benefits of Open Data and how groups are using this information include:

Increasing government capacity

Implementing an Open Data policy provides a useful method for broadening the range of people benefiting from open government data.

Encouraging innovation

Businesses, data-focused journalism centers, academic researchers, software entrepreneurs, and Open Data activist groups can all perform useful data work to identify areas where government services could be improved.

Improving internal quality and use of data

Government users often struggle with the time of obtaining data held across separate departments. Proactive online posting of public data solves this problem by giving internal users full access.

Increased transparency and accountability

Democracy improves when people have data to help them understand how leaders are performing. Open Data is a tool for holding officials accountable and promoting public trust by giving citizens greater insight into the activities of government, including information about how tax dollars are being spent.

Increased citizen engagement through two-way communication

Governments have a great deal of information they want the public to have, and they are interested in receiving public feedback to meet existing challenges. Open Data provides a new way to think about enhancing two-way communication between local government and the public. Release of raw data creates a different kind of communication flow than can be achieved through traditional information dissemination practices.

It's worth noting that while there are many documented benefits to Open Data, there are just as many unknowns that must be considered and thought through as the City works towards providing this data. These include but are not limited to concerns around staffing and maintaining such an initiative; managing expectations around what kind, how much and the timing of providing data; and the questions about data privacy, security and issues around sensitive information.

Alignment with Council Vision Areas and Strategic Plan:

An open data policy is in alignment with goal 4: be a well-managed and successful organization, and goal 5: foster strong connections. It also embraces the values of leadership, trust, creativity and excellence.

Community Engagement:

City staff has worked closely with a few local Open Data super-users to seek direction in developing a general plan for the City's exploration of an Open Data policy. Further community input will be critical to the success of an Open Data policy, especially as the City seeks feedback from potential Open Data users.

Budgetary Impact:

At this time, staff does not know what the budgetary impact will be to implement an Open Data policy.

Recommendation:

Staff has prepared a resolution in support of an Open Data policy and implementation for Council's consideration.

Alternatives:

Council could choose not to move forward with exploring a policy for Open Data at this time.

Attachments:

There are many good local and national resources available to local governments who are interested in Open Data. In drafting this memo, staff accessed reports made available through the Alliance for Innovation, including:

1. [GovEX Labs Open Data Resources](#).
2. [Improving Service and Communications through Open Data](#). Harvard.edu
3. [Where Internal Data and Open Data Meet](#). Transformgov.org
4. [Open Data 101: A History and How-to for What Works Cities](#), Sunlight Foundation.
5. [City of Austin](#) Open Data resolution.

RESOLUTION
In support of Open Data

WHEREAS, open government is based upon the principles of transparency, efficiency, and collaboration; and

WHEREAS, the evolving technology landscape now offers additional opportunities to promote open government, such as mobile applications to provide City services and social media to engage the public; and

WHEREAS, Open Data, proactively disclosing City data, is the foundation of open government, is consistent with citizens' right to public information, and promotes engagement with the potential benefit of civic development to improve service delivery through expanded and innovative uses; and

WHEREAS, Open Data promotes open government by engendering collaboration and opportunities for citizen-developed functionality with the added potential to decrease costs and increase robustness of City services;

NOW THEREFORE BE IT RESOLVED that the Charlottesville City Council is committed to open government and the principles of transparency, efficiency, and collaboration and hereby directs the City Manager to develop and implement an Open Data policy with a comprehensive set of initiatives, guidelines and standards, including machine-readable data, to promote transparency, efficiency and collaboration.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



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|-------------------------|---|
| Agenda Date: | September 19, 2016 |
| Action Required: | Review interim update from Blue Ribbon Commission on Memorials, Race and Public Spaces |
| Presenter: | Don Gathers, Chair Blue Ribbon Commission on Memorials, Race and Public Spaces |
| Staff Contacts: | Maurice Jones, City Manager Mike Murphy, Assistant City Manager Charlene Green, Office of Human Rights Kaki Dimock, Department of Human Services |
| Title: | Update from the Blue Ribbon Commission on Memorials, Race and Public Spaces |

Background:

On May 2, 2016, the Council passed a resolution creating the Blue Ribbon Commission on Race, Memorials and Public Spaces to provide Council with options for telling the full story of Charlottesville's history of race and for changing the City's narrative through our public spaces.

The Commission was charged with providing options to Council for specific ways in which our public spaces are used, or could be used, to address race, including, but not limited to:

- Relocating, or adding context to, existing Confederate statues;
- Augmenting the slave auction block at Court Square;
- Completing the Daughters of Zion cemetery;
- Providing a further narrative for the Vinegar Hill community in conjunction with the ongoing work of the African American Heritage Center;
- Highlighting and linking existing historic places, such as Tonsler House and the Drewary Brown Memorial Bridge;
- Commissioning a new memorial or memorials to an African-American leader;
- Identifying naming opportunities;
- Identifying additional opportunities within the City to enhance a holistic reflection of our history

On June 6, 2016, the Council appointed nine community members to serve as the commission. The commission convened for first meeting on June 16, 2016 and has had a total of 8 regular meetings and one community forum during the intervening time.

Attachments: An interim Update to City Council: September 19, 2016

CITY OF CHARLOTTESVILLE
Blue Ribbon Commission on Race, Memorials, and Public Spaces
Interim Update to City Council: September 19, 2016

Commission Members

Melvin Burruss

Andrea Douglas

Frank Dukes

Gordon Fields (Human Rights Commission first representative)

Don Gathers, Chair

Susan Lewis (Human Rights Commission second representative)

Rachel Lloyd (PLACE representative)

John Mason, Vice Chair

Margaret O'Bryant (Historic Resources Committee representative)

Jane Smith

ACCOMPLISHMENTS & PROCESS

- The commission convened its members and clarified its charge as a group, established a process that is committed to open communication, respectful consideration of multiple views, and informed decision-making; and agreed on ground rules for its conversation.
- The commission gathered for 8 meetings (June 16, June 23, July 7, July 20, August 11, August 24, and September 8) at City Hall and City Space. A public forum was held on July 27 at the Jefferson School Heritage Center. The commission visited relevant historic sites via bus tour on August 13. Finally, the commission attended a presentation by the Historic Resources Committee on September 1. The meeting schedule, meeting agendas, and audio recordings of the meetings have been documented on the commission's webpage.
- The commission identified four subcommittees including:
 - Public Engagement (Melvin Burruss, Frank Dukes). This subcommittee prepares plans for public engagement, organizes public meeting facilitators, sets public meeting agendas, and established the format for community forums.
 - Case Studies (Don Gathers, Gordon Fields/Susan Lewis). This subcommittee researches the decisions and results of other cities' efforts to address similar questions about race, memorials, and public spaces.
 - Inventory of Historic Sites (Andrea Douglas, Rachel Lloyd). This subcommittee is creating an inventory of historic sites related to the city's African American history.
 - Historical Context and Background (John Mason, Margaret O'Bryant, Jane Smith). The subcommittee has been assembling the materials that the commission will need to understand slavery and the slave trade, the Civil War, and the racial climate of the 1910s and 1920s at both the local and national levels.
- Chief Deputy City Attorney, Lisa Robertson provided a summary of the legal issues raised by the 2016 Virginia Assembly bill HB587, the Governor's subsequent veto of the bill, and the related court case in Danville that resulted in the removal of a Confederate flag from a monument on the grounds of the Sutherlin Mansion. The City Attorney's

office also provided legal interpretation of the terms of the deeds for Lee and Jackson Parks.

- Members of the commission undertook targeted research and data collection and considered a preliminary “benchmarking” review of work accomplished by other cities facing similar consideration of public monuments including: Alexandria, VA; St. Louis, MO; Richmond, VA; New Orleans, LA; and Baltimore, MD.
- The community’s deep interest in the topic of race, memorials, and public spaces resulted in continuous and vigorous engagement between the commission and the citizens of Charlottesville. Every regular commission meeting includes two public comment opportunities totaling approximately 20 minutes or more. Members of the public also attended the bus tour of the historic sites. In addition, the commission hosted a community forum on July 27 and has plans for two more. The first forum was held at the Jefferson School. This forum was intended to be a “listening session” and included two open public comment periods and a small group discussion period organized around four separate topics:
 - What are the stories you want told about Charlottesville?
 - What places need to be memorialized that are not being memorialized sufficiently? Who are some of our hidden heroes?
 - What does the statue of Stonewall Jackson mean to you? What would you like to see happen in that location?
 - What does the statue of R.E. Lee mean to you? What would you like to see happen in that location?

Approximately 150 people attended the first forum. Members of the public spoke for and against removing the Lee and Jackson statues, although a preponderance of speakers recommended retaining the monuments and adding new interpretive information that recontextualizes them for contemporary times. The small group discussions revealed a powerful desire within the community to publicly interpret the city’s full history through an inclusive and complete approach that proclaims our hidden stories, places, and heroes.

- The next public forum will be held at Buford Middle School at 6 p.m. on September 22. The Commission will be seeking input from residents about the following topics:
 - Concept: Reinterpret the parks while statues remain
 - Concept: Move statues to another location
 - Concept: Memorialize the people and events of the slave auction block
 - Concept: Undertake additional surveys, oral histories, and documentation
 - Concept: Acknowledge historic places through markers, place names, and other recognition
 - Concept: Add new memorial(s) to people, events or ideas
 - Concept: Support educational and other programming (festivals, special events)
 - Concept: Support neighborhood protection and preservation

A separate station will allow participants to share any ideas for additional opportunities within the City to enhance a holistic reflection of our history.

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