



CITY COUNCIL AGENDA
July 7, 2014

5:00 p.m. – 7:00 p.m.

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

Second Floor Conference Room (Appointments to Boards and Commissions;
Consultation with legal counsel regarding acquisition of a utility easement on McIntire Road
and regarding a settlement of pending condemnation litigation involving property on the Rt.
250 Bypass; Schenks Branch)

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

Council Chambers

AWARDS/RECOGNITIONS
ANNOUNCEMENTS

MATTERS BY THE PUBLIC

Public comment will be permitted for the first 12 speakers who sign up in advance of the meeting (limit of 3 minutes per speaker) and 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.

COUNCIL RESPONSE TO MATTERS BY THE PUBLIC

1. CONSENT AGENDA*

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

a. Minutes for June 2

b. APPROPRIATION:

Appropriating Proceeds of Sale of Portion of 1279 Kenwood to the Parkland Acquisition Account - \$101,850 (1st of 2 readings)

c. APPROPRIATION:

State Assistance for Spay and Neuter Program at S.P.C.A. – \$994.63 (1st of 2 readings)

d. APPROPRIATION:

Chesapeake Bay Trust Green Streets, Green Jobs, Green Towns Grant - \$182,035 (1st of 2 readings)

e. APPROPRIATION:

Bama Works Grant - \$5,000 (1st of 2 readings)

f. APPROPRIATION:

Reimbursed Expenses for Fontaine Fire Station - \$52,500 (1st of 2 readings)

g. RESOLUTION:

Acceptance of Christa Ct. (1st of 1 reading)

h. RESOLUTION:

Sidewalk Waiver Request for 2006 Pine Top Road (1st of 1 reading)

i. RESOLUTION:

Establishment of Permit Parking on the 300 block of 7 ½ St SW (1st of 1 reading)

j. RESOLUTION:

Establishment of Permit Parking on the south side of the 1000 Block of Grady Ave between 10th St NW and 10 ½ St NW (1st of 1 reading)

k. ORDINANCE:

Second Extension of Cable Television Franchise Agreement (2nd of 2 readings)

l. ORDINANCE:

Lumos Networks Telecommunications Franchise Renewal (1st of 2 readings)

2. RESOLUTION*

Sidewalk Waiver Request for 1659 Cambridge Circle (1st of 1 reading)

3. REPORT*

Belmont Bridge Steering Committee

4. REPORT

RWSA/RWA Quarterly Update

5. REPORT

Community Engagement Update

OTHER BUSINESS

MATTERS BY THE PUBLIC

*ACTION NEEDED

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



Agenda Date:	July 7, 2014
Action Required:	Appropriation
Presenter:	Chris Gensic, Parks and Recreation
Staff Contacts:	Chris Gensic, Parks and Recreation Brian Daly, Parks and Recreation Leslie Beauregard, Director, Budget and Performance Management
Title:	Appropriating Proceeds of Sale of Portion of 1279 Kenwood to the Parkland Acquisition Account - \$101,850

Background: The City of Charlottesville, through Parks and Recreation, purchased a property at 1279 Kenwood. A large portion of the parcel was divided out and added to Greenbrier Park. The remaining portion was sold to a private owner for the purposes of building a home. The proceeds of the sale of the lot are to be returned to the Parkland Acquisition account in the Capital Improvement Program Fund to use for acquisitions of other properties for future parkland.

Discussion: Because Parkland Acquisition funds were used for this transaction, the proceeds are to be returned to the same fund.

Community Engagement: Purchase of the property for parkland and trail access was discussed during meetings related to Greenbrier Park and the Meadow Creek restoration project.

Alignment with City Council's Vision and Priority Areas: This appropriation supports Council vision to be both a green and connected community.

Budgetary Impact: This appropriation will return \$101,850 to the Parkland Acquisition account in the Capital Improvement Program Fund

Recommendation: Staff recommends appropriation of funds.

Alternatives: If the funds are not appropriated, the Parks Department will not have the appropriate amount of funding to continue purchasing parkland in other areas of the City.

Attachments: N/A

APPROPRIATION.

**Proceeds of Sale of Portion of 1279 Kenwood to the Parkland Acquisition Account
\$101,850.**

WHEREAS, the City of Charlottesville, through Parks and Recreation, purchased the entire parcel at 1279 Kenwood, and retained a large portion for parkland and trail access; and

WHEREAS, the City has sold the remaining portion of the lot for a net return of \$101,850; and

WHEREAS, the City wishes to continue acquiring parkland in other areas of the city using the Parkland Acquisition account.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$101,850 is hereby appropriated in the following manner:

Revenue

\$101,850 Fund: 426 WBS: P-00534 G/L Account: 451240

Expenditures

\$101,850 Fund: 426 WBS: P-00534 G/L Account: 599999

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



Agenda Date:	July 7, 2014
Action Required:	Approval and appropriation
Staff Contacts:	Leslie Beauregard, Director, Budget and Performance Management
Presenter:	Leslie Beauregard, Director, Budget and Performance Management
Title:	State Assistance for Spay and Neuter Program at S.P.C.A. – \$994.63

Background/Discussion: The City has received State assistance in the amount of \$994.63 from the Department of Motor Vehicles for sales of license plates bought to support spay and neutering of pets. These funds are appropriated to the local agency that performs the local spay and neutering program, which in this case is the Charlottesville/Albemarle Society for the Prevention of Cruelty to Animals (S.P.C.A.).

Budgetary Impact: These funds will be appropriated into the General Fund and distributed to the S.P.C.A.

Community Engagement: N/A

Alignment with City Council’s Vision:

By keeping animals healthy and their populations under control, this contributes to Council’s vision to be America’s Healthiest City.

Recommendation: Staff recommends approval and appropriation.

Alternatives: Return funds to the State.

Attachments: N/A

Appropriation.

**State Assistance for Spay and Neuter Program at S.P.C.A.
\$994.63.**

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a total of \$994.63 is hereby appropriated to the Charlottesville/Albemarle S.P.C.A. in the following manner:

Revenues - \$994.63

Fund: 105 Cost Center: 9713006000 G/L Account: 430080

Expenditures - \$994.63

Fund: 105 Cost Center: 9713006000 G/L Account: 540100

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	July 7, 2014
Action Required:	Approval of Appropriation
Presenter:	Dan Frisbee, Water Resources Specialist
Staff Contacts:	Kristel Riddervold, Environmental Sustainability Manager Dan Sweet, Stormwater Utility Administrator
Title:	Chesapeake Bay Trust Green Streets – Green Jobs – Green Towns Grant - \$182,035

Background:

The goal of the Chesapeake Bay Green Streets – Green Jobs – Green Towns (G3) grant program is to help communities implement plans that reduce stormwater runoff, increase tree canopy, improve local and Bay water quality, and enhance the quality of life in communities of the Maryland, Delaware, Pennsylvania, Washington D.C., West Virginia, and Virginia portions of the Chesapeake Bay. The program is a partnership of the Chesapeake Bay Trust, the Maryland Department of Natural Resources, and the United States Environmental Protection Agency.

On May 22, 2014, the City received a grant award letter indicating approval of a grant in the amount of \$182,035 for costs associated with implementation of a bio-retention area and permeable pavers at Charlottesville High School.

Discussion:

The suite of stormwater management improvements at Charlottesville High School (CHS) will include removal of a portion of existing conventional asphalt parking lot and replacement with native trees and grasses; conversion of a portion of existing conventional asphalt parking lot to a permeable pavement parking lot; and installation of a bio-retention facility. The construction is anticipated to occur during Summer 2015.

The improvements will help to further the environmental sustainability efforts of the City and the City Council's Green City vision and it will help the City meet local and regional water quality improvement requirements. The improvements will provide Charlottesville City Schools with the opportunity to pursue a credit and associated stormwater utility fee reduction for the property.

Community Engagement:

The green infrastructure proposal was coordinated with the Charlottesville City Schools, the City's Parks and Recreation Department, and the Public Works Department. Green stormwater infrastructure, discussed through the Stormwater Utility proposal process, is a high priority strategy of the Water Resources Protection Program to address local and regional water quality improvement requirements.

The water quality improvements will be publicly accessible features, and have the potential to serve as public environmental education amenities. They will also demonstrate the types of projects that the Water Resources Protection Program and stormwater utility will be pursuing and encouraging.

Alignment with Council Vision Areas and Strategic Initiatives:

The project supports City Council's "Green City" vision and contributes to Goal 2, *Be a safe, equitable, thriving, and beautiful community*, and objective 2.5, *to provide natural and historic resources stewardship*, of the City's recently adopted Strategic Plan. This also aligns with discussions and commitments of the PLACE Task Force and City Council, specifically with respect to Context Sensitive Street Design.

Budgetary Impact:

The financial match to the proposed grant award comes from funded programs established for stormwater demonstration projects as well as from Charlottesville City Schools.

Recommendation:

Staff recommends approval of the appropriation.

Alternatives:

Council may decline the grant.

Attachments:

N/A

APPROPRIATION
Chesapeake Bay Trust Green Streets – Green Jobs – Green Towns Grant
\$182,035

WHEREAS, the City of Charlottesville has received a \$182,035 grant from the Chesapeake Bay Trust and its funding partners (Maryland Department of Natural Resources and the United States Environmental Protection Agency) to support the implementation of a bio-retention area and permeable pavers at Charlottesville High School, and

WHEREAS, matching funds are available in funded programs.

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

Revenues

\$182,035	Fund: 211	IO: 1900224	G/L: 431110 Federal Grants
\$ 30,000	Fund: 211	IO: 1900224	G/L: 498010 Transfer from Other Funds
\$ 53,790	Fund: 211	IO: 1900224	G/L: 498010 Transfer from Other Funds

Expenditures

\$265,825	Fund: 211	IO: 1900224	G/L: 541011 Capital Purchase - Direct
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Transfer from

\$30,000	Fund: 426	WBS: P-00727-06	G/L: 561211 Transfer to Fed Grant Funds
\$53,790	Fund: 631	IO: 2000095	G/L: 561211 Transfer to Fed Grant Funds

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



Agenda Date:	July 7, 2014
Action Required:	Approve appropriation
Presenter:	Diane Kuknyo, Director Charlottesville Department of Social Services
Staff Contacts:	Diane Kuknyo, Director Sue Moffett, Assistant Director Charlottesville Department of Social Services
Title:	Appropriation of The Bama Works Fund of Dave Matthews Band in the Charlottesville Area Community Foundation Grant to Support Family Engagement for Foster Care Children- \$5,000.

Background:

The City of Charlottesville, through the Department of Social Services, has received a \$5,000 grant from The Bama Works Fund, through the Charlottesville Area Community Foundation, to support family engagement for foster care children. This project is based on the Family Finding model developed by Kevin A. Campbell of the National Institute for Permanent Family Connectedness.

The Family Finding model offers methods and strategies to locate and engage relatives of children currently living in out-of-home care. The goal of Family Finding is to connect each child in foster care with biological family members, so that every child may benefit from the lifelong connections that only a family provides. We believe this project will demonstrate a cost effective approach to serving our most difficult foster care cases and will result in strong, permanent family connections for these youth in the custody of Social Services.

Discussion:

This service model uses evidenced based methods to enhance family engagement services provided by Department of Social Services for a foster care youth that has been in care for two years or more and has very little connection to any of his or her relatives. We consider these youth to be the “loneliest” children in foster care. They often have mild to severe behavior problems, limited academic success and multiple foster care placements. These youth have often been in foster placements away from their home community and may currently be living in a group home or residential facility. They usually have a strong desire to know and reconnect with their biological family or other adults who have played a significant role in their lives. In these cases neither the children nor their family are able to achieve connections with each other without the assistance of the custodial agency.

Communities across the Commonwealth are working to embrace the quickly changing practices in child welfare. Program guidance has been issued in Virginia requiring local Departments of

Social Services to reduce out of family foster care placements, engage families in permanency planning for all children in foster care, and improve outcomes for children aging out of foster care. However, traditional funding sources for service provision remain disconnected from the innovative practice model. We anticipate this \$5,000 award would allow us to serve 2 cases in this project. These 2 cases will allow us to demonstrate the cost-effectiveness of this service delivery model and position us to advocate for a change in the mainstream funding structure for child welfare.

Alignment with Council Vision Areas and Strategic Plan:

This project aligns with the Vision 2025 areas **A Connected Community**, and a **Community of Mutual Respect**. It contributes to **Goal 2:** Be a safe, equitable, thriving and beautiful community; and objective 2.4 Ensure families and individuals are safe and stable. It also contributes to **Goal 5:** Foster Strong Connections; and objectives 5.1 Respect and nourish diversity; 5.2 Build Collaborative Partnerships; and 5.3 Promote Community Engagement.

Using innovative practices to improve program outcomes and evaluate cost efficiencies also aligns with Vision 2025 area **Smart, Citizen-focused Government**. It contributes to **Goal 4:** Be a well-managed and successful organization; and objective 4.4 Continue strategic management efforts.

Community Engagement:

This casework model is a natural enhancement of the Family Engagement practice model. Engaging family and other significant adults in the community with the planning for safety and permanency for child welfare involved children is proving to reduce out of family foster care placements and improve outcomes for children.

Budgetary Impact:

This grant will be appropriated into the Social Services Fund.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

We will be unable to implement this project if the grant funds are not appropriated.

Attachments:

None.

APPROPRIATION.
**Appropriation of The Bama Works Fund of Dave Matthews Band in the Charlottesville
Area Community Foundation Grant to Support Family Engagement for Foster Care
Children.**
\$5,000.

WHEREAS, the Charlottesville Department of Social Services has received \$5,000 to support family engagement for foster care children from the Bama Works Fund of the Dave Matthews Band

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$5,000 is hereby appropriated in the following manner:

Revenue – \$5,000

Fund: 212 Cost Center: 3343011000 G/L Account: 451022

Expenditures - \$5,000

Fund: 212 Cost Center: 3343011000 G/L Account: 540060

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$5,000 from the Bama Works Fund of the Dave Matthews Band.

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



Agenda Date:	July 7, 2014
Action Required:	Appropriation of Funds
Presenter:	Mike Mollica, Division Manager and Capital Projects Coordinator, Facilities Development
Staff Contacts:	Lisa Robertson, Chief Deputy City Attorney, Office of the City Attorney Leslie Beauregard, Director – Budget and Performance Management Mike Mollica, Division Manager and Capital Projects Coordinator, Facilities Development
Title:	Appropriation of Reimbursed Expenses for Fontaine Avenue Fire Station Project - \$52,500

Background: Recently the City received funds in the amount of \$52,500, as reimbursement for expenses previously incurred/ paid during the initial site work for the Fontaine Fire Station Project.

Discussion: A clerical error in the construction plans (i.e., an incorrect benchmark reference) resulted in a need for a storm sewer line to be re-installed at an adjusted elevation. The City has received reimbursement of certain expenses associated with that work, and we request that this reimbursement be appropriated to the Project account.

Community Engagement: N/A

Alignment with Council Vision Areas and Strategic Plan: This request supports City Council’s “Smart, Citizen-Focused Government” vision. It contributes to Goal 4 of the Strategic Plan, Be a well-managed and successful organization, and objective 4.1, to align resources with the City’s strategic plan.

Budgetary Impact: The funds will be appropriated into the project account in the Capital Improvement Program Fund.

Recommendation: Approve appropriation as requested.

Alternatives: N/A

Attachments: N/A

APPROPRIATION.

**Appropriation of Reimbursed Expenses for Fontaine Avenue Fire Station Project.
\$52,500.**

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that \$52,500 is hereby appropriated in the following manner:

Revenues - \$52,500

Fund: 426 WBS: P-00433 G/L Account: 451999

Expenses - \$52,500

Fund: 426 WBS: P-00433 G/L Account: 599999

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



Agenda Date: July 7, 2014

Action Required: Passage of Street Acceptance Resolution

Staff Contacts: Jim Tolbert, AICP, Director
Missy Creasy, AICP, Planning Manager
Tony Edwards, City Engineer

Title: Acceptance of Christa Court

Background: Christa Court, a street 310 feet in length perpendicular to Harris Road, was created as part of a subdivision approved on November 28, 1995. The site plan for the road associated with this subdivision (named Bolick Court on the 1995 subdivision plat) was originally approved in November of 1995, but the site plan expired. A new plan was submitted and approved on October 11, 2007 and amended on February 19, 2013. The developer, Beau Dickerson of Dickerson Homes and Development, completed construction of the 9 new homes and street right of way, which he re-named Christa Court. Mr. Dickerson has requested that Christa Court be accepted into the City street system.

Discussion: The lots on Christa Court were developed with the intent to become a public street. The City Engineer has inspected Christa Court and recommends its acceptance as a City street.

Budgetary Impact: This project has resulted in additional property taxes for the City. The city will incur costs to maintain this public street. These include plowing snow, trash collection to eventual resurfacing. While snow plowing could begin this winter, other maintenance is projected to be several years off.

Recommendation: Accordingly, it is recommended that Christa Court be accepted into the City street system for maintenance, and that a request be submitted to the Virginia Department of Transportation residency office for future consideration of state maintenance funds.

Attachments: As-Built Drawing of Christa Court

**RESOLUTION
ACCEPTING CHRISTA COURT
INTO THE CITY STREET SYSTEM FOR MAINTENANCE**

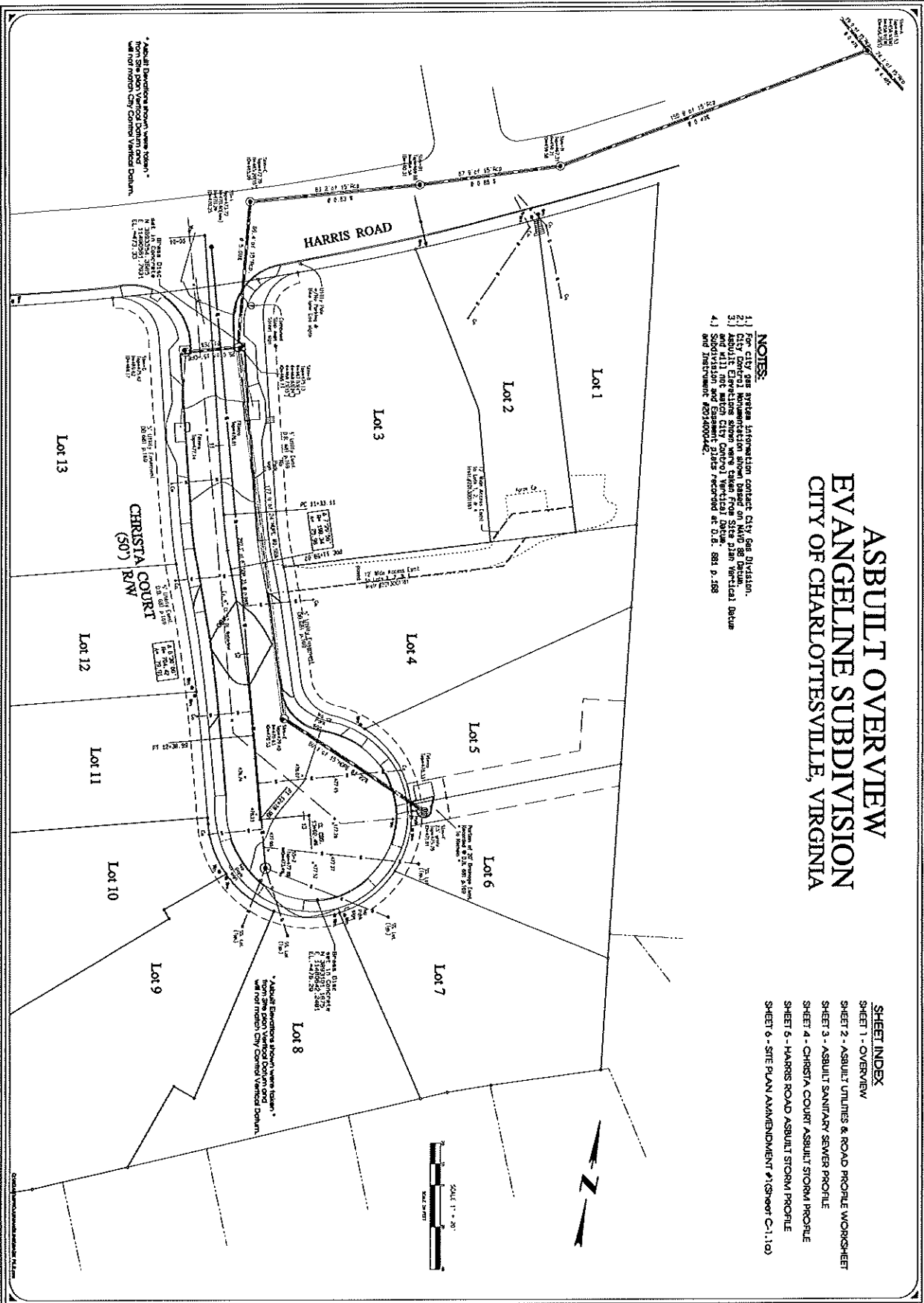
WHEREAS, a private road named Bolick Court in the Evangeline Subdivision was created by subdivision plat dated October 12, 1994, last revised September 1, 1995, of record in the Charlottesville Circuit Court Clerk's Office in Deed Book 681, Pages 169-170; and

WHEREAS, Dickerson Homes purchased the lots in the Evangeline Subdivision in 2012, constructed 9 homes, re-named Bolick Court as Christa Court, and improved the cul-de-sac street to meet City street standards; and

WHEREAS, Dickerson Homes has requested the acceptance of Christa Court into the City street system, and after inspection the City Engineer recommended its acceptance; now, therefore,

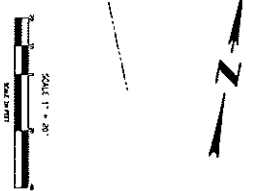
BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, on recommendation of the City Engineer and City Manager, that Christa Court, formerly known as Bolick Court, which has been built to the specifications and standards required by City-approved plans, is hereby accepted into the City street system for maintenance.

ASBUILT OVERVIEW EVANGELINE SUBDIVISION CITY OF CHARLOTTEVILLE, VIRGINIA



- NOTES:**
- 1) For City and other information contact City Gas Division.
 - 2) City Control Monumentation shown based on NAVD 88 datum.
 - 3) ASBUILT Elevation shown with Chain from Site Plan Vertical Datum. See also City Control Vertical Datum. See also City Control Vertical Datum. See also City Control Vertical Datum.
 - 4) Survey File No. 403400042.

- SHEET INDEX**
- SHEET 1 - OVERVIEW
 - SHEET 2 - ASBUILT UTILITIES & ROAD PROFILE WORKSHEET
 - SHEET 3 - ASBUILT SANITARY SEWER PROFILE
 - SHEET 4 - CHRISTA COURT ASBUILT STORM PROFILE
 - SHEET 5 - HARRIS ROAD ASBUILT STORM PROFILE
 - SHEET 6 - SITE PLAN AMENDMENT #1 (Sheet C-1.10)



<p>ASBUILT OVERVIEW ROAD AND UTILITIES PLAN EVANGELINE SUBDIVISION CHARLOTTEVILLE, VIRGINIA</p>	<p>DATE JUNE 13, 2010</p>	<p>SCALE 1" = 20' HORIZONTAL 2" VERTICAL</p>	<p>CONTRACT/INTERNAL 2 FLEET</p>	<p>PROJECT 1/8</p>	<p>ROUDABUSH, GALE & ASSOCIATES, INC. ENGINEERS, SURVEYORS AND LAND PLANNERS A PROFESSIONAL CORPORATION "SERVING VIRGINIA SINCE 1958" 914 MONTICELLO ROAD - CHARLOTTEVILLE, VIRGINIA 22902 PHONE 541-877-6250 - FAX 541-896-6220 - EMAIL INFO@ROUDABUSH.COM</p>
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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date: July 7, 2014

Action Required: Vote on a request for a sidewalk waiver

Presenter: Brian Haluska, Senior Planner, Neighborhood Development Services

Staff Contact: Brian Haluska, Senior Planner, Neighborhood Development Services

Title: **Sidewalk Waiver Request for 2006 Pine Top Road**

Background:

Baird Snyder has applied for a sidewalk waiver for property located at 2006 Pine Top Road. The property is a vacant lot, and is zoned for single-family residential development. The applicant is requesting a waiver of the City's requirement for the construction of sidewalk on lots that are previously undeveloped.

Discussion:

Section 34-1124(b) requires that sidewalk be constructed on "a previously unimproved lot or parcel...unless this requirement is waived by Council." The code section does not elaborate on the factors Council may consider in deciding to grant waiver, giving the Council broad discretion to make the decision.

City staff evaluate sidewalk waiver requests based on whether any engineering challenges exist that would require an undue financial burden on the applicant, if the sidewalk would cause a disproportionate increase in the cost of the City to maintain the sidewalk in the future (i.e. the need for retaining walls), the sidewalk's potential impact to nearby trees and utilities, and if there is sufficient right-of-way to construct the sidewalk without requiring additional right-of-way acquisition. City engineering staff examined the subject lot and found no topographic challenges that would lead to any undue cost to the applicant. Additionally, the City's Bicycle and Pedestrian Coordinator comments on all requests for sidewalk waivers. The Bicycle and Pedestrian Coordinator had no comment on the proposed waiver.

The justification from the applicant cites that the lot is a single lot on a block of previously developed lots, and that there are no adjacent sidewalk sections.

Citizen Engagement:

No citizen engagement efforts have been undertaken.

Alignment with City Council's Vision and Priority Areas:

The City Council Vision of a Connected Community states that "bike and pedestrian trail systems, sidewalks, and crosswalks enhance our residential neighborhoods." Requiring that the sidewalk be constructed would be in keeping with the City Council's vision.

Alignment with City Council's Comprehensive Plan:

The first goal in the Transportation Chapter of the Comprehensive Plan states "Increase safe, convenient and pleasant accommodations for pedestrians, bicyclists and people with disabilities that improve quality of life within the community and within individual neighborhoods."

The second goal in the Environment Chapter of the Comprehensive Plan states "Promote practices throughout the City that contribute to a robust urban forest."

The Barracks/Rugby Neighborhood Plan from 2006 contains the following statements pertaining to pedestrian connections in the neighborhood:

- The neighborhood wants a balance of different modes of transportation (multi-modal).
- Create sidewalks only on streets that neighbors want them.
- Speeding is an issue that compromises pedestrian safety. Correlate speed limit with the presence of sidewalks to increase walkability and bikeability.
- Create pedestrian and bicycle connections to McIntire Park in general and from Greenleaf Park following the stream corridor.
- Create pedestrian and bicycle connections as well as an additional bus line from neighborhood to Barracks Road Shopping Center and Emmet St.
- A New Center Proposed – which includes the clean up and creation of a pocket park at the end of Meadowbrook Road between Barracks and Spotswood Road.

Budgetary Impact:

This item has a small impact on the budget as a new sidewalk will require City maintenance once completed.

Recommendation:

Following a review of the request, staff finds the sidewalk required along Pine Top Road will be difficult to build because of limited right-of-way and tree/utility conflicts.

The Blue Ridge Road sidewalk section is of a higher priority as it could conceivably make up a portion of a pedestrian connection to the Rivanna Trail and Meadowcreek Gardens along with an existing section of sidewalk on Spotswood Road. The sidewalk would, however, impact several trees on the subject property. It is also worth noting the presence of an unopened right-of-way and alleys on this block that could offer better options for pedestrian connectivity to Meadowcreek Gardens than a sidewalk would.

Staff finds that the preservation of the mature trees on the property along Blue Ridge to be a sufficient reason to waive the required sidewalk in this instance, and recommends the waiver be approved with the following condition:

1. The owner shall submit a tree preservation plan for any tree within 15 feet of the edge of the right-of-way. The plan shall be reviewed and approved by the City Arborist prior to the approval of any building permit on the lot and again prior to issuance of the Certificate of Occupancy for any building within the development.

Alternatives:

None.

Suggested Motions:

- I move to approve this request for a waiver of sidewalk requirements at 2006 Pine Top Road with the condition stated in the staff report.
- I move to deny this request for a waiver of sidewalk requirements at 2006 Pine Top Road.

Attachments:

Aerial and Site Photos

Application

Applicant's Narrative

RESOLUTION
Granting a Sidewalk Waiver Request
Pine Top Road and Blue Ridge Road

WHEREAS, application has been made for a waiver of the requirement under City Code Section 34-1124(b) to construct a sidewalk along portions of Pine Top Road and Blue Ridge Road adjacent to Lot 69C (the “Property”), as shown on a subdivision plat dated September 27, 2013, attached hereto, which Property is currently designated as Parcel 7.2 on City Real Estate Tax Map 40, which Property is currently unimproved; and,

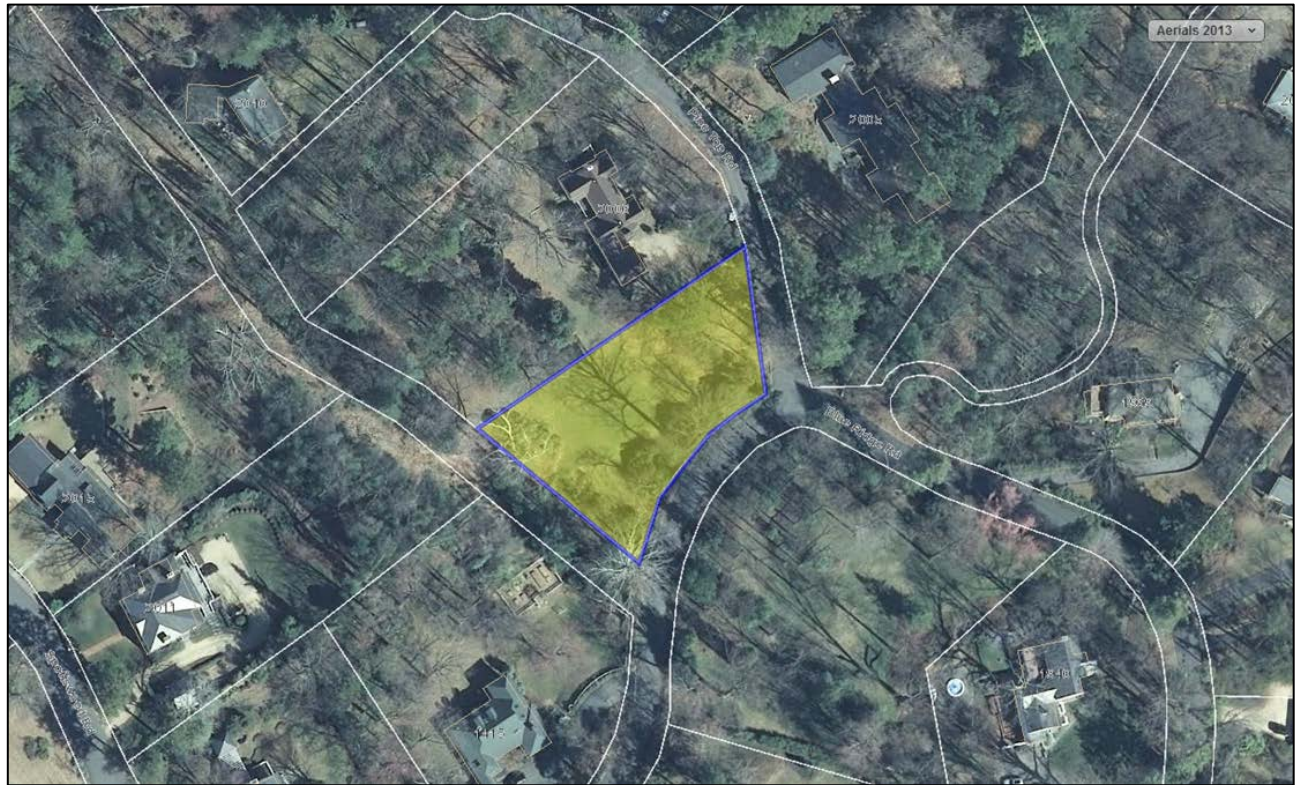
WHEREAS, City staff has submitted to Council comments and recommendations regarding the sidewalk waiver request, and Council has reviewed the matter; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the sidewalk waiver request for the Property is hereby approved, with conditions, upon a finding that the following circumstances create an unusual situation, justifying a departure from the City’s general requirement for construction of a sidewalk:

1. Pine Top Road has limited right-of-way width, making it difficult to accommodate a sidewalk.
2. There are mature trees and utility lines on the Blue Ridge Road section where the sidewalk would be located, and the provision of a sidewalk in this area would likely require the loss of the mature trees.
3. Pedestrian access to nearby greenbelt trails is already readily available via a nearby unopened right-of-way.

BE IT FURTHER RESOLVED that approval of the waiver is conditioned upon the owner of the Property submitting a tree preservation plan for any tree on the Property within 15 feet of the edge of the Pine Top Road or Blue Ridge Road right-of-way. The plan shall be reviewed and approved by the City Arborist prior to the approval of any building permit for construction of any building or structure on the Property, and again thereafter, prior to issuance of any Certificate of Occupancy for any building or structure constructed on the Property.

Aerial Photo



Site Photos



Pine Top Frontage



Pine Top Right-of-Way



Corner of Pine Top and Blue Ridge, looking down Pine Top



Corner of Pine Top and Blue Ridge



Existing Tree that would be impacted by Blue Ridge sidewalk.



Frontage along Blue Ridge Road



Trees along the Blue Ridge Frontage



Frontage along Blue Ridge looking back towards Pine Top.



WAIVER REQUEST FORM

Please Return To: City of Charlottesville
 Department of Neighborhood Development Services
 PO Box 911, City Hall
 Charlottesville, Virginia 22902
 Telephone (434) 970-3182 Fax (434) 970-3359

3 For a Critical Slopes Waiver Request, please include one of the following application fees: \$75 for single-family or two-family projects; \$500 for all other project types. **additional application form required*
 For all other Waiver Requests, please include one of the following application fees: \$50 for single-family or two-family projects; \$250 for all other project types.

Project Name/Description CORNER OF PINETOP RD. AND BLUE RIDGE Parcel Number MAP 40, PARCEL 7, LOT 69 A
 Address/Location PART OF 2006 PINETOP ROAD
 Owner Name BAIRD SNYDER Applicant Name BAIRD SNYDER

Applicant Address: P.O. Box 4888
 Phone (H) 434 296 6266 (W) 434 760 1599 (F) 434 979 5396
 Email: bairdsnyder@aol.com

Waiver Requested (review Zoning Ordinance for items required with waiver submissions):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Sidewalk
<small>*Contact Staff for Supplemental Requirements</small> | <input type="checkbox"/> Drainage/Storm Water Management |
| <input type="checkbox"/> Site Plan Review | <input type="checkbox"/> Off-street Parking |
| <input type="checkbox"/> Landscape | <input type="checkbox"/> Lighting |
| <input type="checkbox"/> Setbacks | <input type="checkbox"/> Signs |
| <input type="checkbox"/> Communication Facilities | <input type="checkbox"/> Critical Slopes <i>*additional application form required</i> |
| <input type="checkbox"/> Stream Buffer Mitigation Plan | <input type="checkbox"/> Other |

Description of Waiver Requested: A waiver for the requirement that the owner of a vacant lot must build a sidewalk when building a house on that lot.
 Reason for Waiver Request: SEE ATTACHED NOTE

Baird Snyder
 Applicant Signature

5/6/14
 Date

Property Owner Signature (if not applicant)

Date

For Office Use Only: Date Received: 5/7/14

Review Required: Administrative Planning Commission City Council

Approved: _____ Denied: _____
 Director of NDS

Comments: _____

May 6, 2014

Applicant and Owner of TM40, Parcel 7, Lot 69A:

Baird Snyder
P.O. Box 4888
Charlottesville, Va. 22905

Reason for waiver request:

This lot is on the corner of Pine Top Road and Blue Ridge Road.

Pine Top Road is a dead end road with six houses and two vacant lots. The width of the pavement on Pine Top Road varies between 14' and 16'. A sidewalk would reduce the width to approximately 12' to 14'. It is a very quiet street where cars drive very slowly and people can safely walk and have done so for about 70 years. A sidewalk on Pine Top Road would make vehicle traffic more difficult and would look out of place on this quiet, little street.

Blue Ridge Road and Pine Top Road are part of a neighborhood with only a few small pieces of side walk. Two adjacent houses on Spotswood Road have sidewalk in front of them and one house on Hessian Road has sidewalk in front of it. There are no sidewalks on Blue Ridge Road, Hill Top Road, and Meadowbrook Road, and none on Rugby Road north of its intersection with Dairy Road. The streets are generally narrow and winding, leading to slow and cautious vehicle traffic. A sidewalk along this lot on Blue Ridge Road would be detrimental to the aesthetic character of the neighborhood. It will also be a sidewalk to nowhere. The closest sidewalk heading east on Blue Ridge Road is about 2000' away, and the closest sidewalk heading south is on Spotswood, about 600' away.



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



Agenda Date: *July 7, 2014*

Action Required: *Approve resolution*

Presenter: *Jared Buchanan, Assistant Traffic Engineer*

Staff Contacts: *Jared Buchanan, Assistant Traffic Engineer
Donovan Branche, Traffic Engineer*

Title: *Establishment of Permit Parking on the 300 block of 7 ½ St SW*

Background, Discussion, and Community Engagement:

On March 13, 2014 petitions for permit parking controls were received from residents of the 300 block of 7 ½ St SW. Petitions have been received from 75% of affected households between Cherry Ave and Nalle St, meeting the requirement of 75% set by City Code. There are two residences between Nalle St and Dice St from which petitions were not received. Including that section of 7 ½ St SW would require at least one additional signature in order to meet the 75% support requirement.

April 24, 29 and 30, 2014, City staff conducted parking surveys in accordance with City Code. We found that 93% of the 12 available on-street parking spaces, as determined in accordance with City Code, were filled and that 63% of available on-street parking was occupied by commuter vehicles. City Code requires that 75% of available on-street parking be filled and that 50% of available on-street parking spaces be occupied by commuter vehicles in order for a given block to qualify for the establishment of permit parking controls. These figures are valid for 7 ½ St from Cherry to Dice. The section-by-section figures are shown in the table below:

Cherry to King		King to Nalle		Nalle to Dice	
Commuter	Total	Commuter	Total	Commuter	Total
150%	150%	51%	94%	68%	68%

Alignment with City Council’s Vision and Priority Areas:

Approval of this resolution aligns with City Council’s Vision of Charlottesville as a **Smart, Citizen-Focused Government** by providing a service to the residents of 7 ½ St SW that protects their ability to park within a reasonable distance of their homes through pragmatic, low-cost, and ultimately effective means.

Budgetary Impact:

Minimal – cost for new signs and posts. A small amount of revenue will be received through the administration of parking permits.

Recommendation:

Staff recommends the approval of this resolution, establishing the 300 Block of 7 ½ St SW as a permit parking control block. Because of the short block length and the fact that all of the intersections between Cherry and Dice are T-intersections, City Staff recommends 7 ½ St between Cherry and Dice be considered a single block for permit parking control purposes. Further, because the installation of permit parking controls frequently shifts the problem to the next available parking facilities, City Staff recommends installing the permit parking controls in the section between Nalle St and Dice St despite a lack of signatures from those residents. To the knowledge of City Staff, those signatures were not sought by the petitioner.

Alternatives:

- 1) Only install permit parking controls between Cherry Ave and Nalle St.
- 2) Leave parking unrestricted on 7 ½ St SW.

Attachments:

None

RESOLUTION
APPROVING THE 300 BLOCK OF 7½ STREET SW
AS A RESTRICTED PARKING AREA

WHEREAS, residents of the 300 block of 7½ Street SW have requested that City Council designate that block as a restricted parking area; and

WHEREAS, in accordance with City Code Section 15-201, *et seq.*, the City Traffic Engineer has conducted on street parking surveys and mailed notice to all residents of the affected area that Council will consider designating such area as a restricted parking area; and

WHEREAS, the surveys have shown that at least 75% of the total number of on street parking spaces in the proposed restricted parking area were occupied, and at least 50% of the total number of on street parking spaces in that area were occupied by commuter vehicles; and

WHEREAS, in accordance with City Code Section 15-203(b)(3), the City Manager has certified that the parking surveys have met the minimum parking occupancy requirements for permit parking controls; and

WHEREAS, Council has considered:

- (a) the purpose and intent of the permit parking ordinance and regulations;
- (b) the alternate means of transportation, if any, to and from the restricted parking area being established;
- (c) the adverse impact that restricting parking in such area might have on nearby neighborhoods that do not have permit parking;
- (d) the adverse impact that such restrictions may have on the non-residents of the proposed restricted parking area and their ability to find available parking near their place of work; and
- (e) the hours, if any, during which the proposed restricted parking area is affected by commuter vehicles; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville that the 300 block of 7½ Street SW, from Cherry Avenue to Dice Street, is hereby designated as a restricted parking area.

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



Agenda Date: *July 7, 2014*

Action Required: *Approve resolution*

Presenter: *Jared Buchanan, Assistant Traffic Engineer*

Staff Contacts: *Jared Buchanan, Assistant Traffic Engineer
Donovan Branche, Traffic Engineer*

Title: *Establishment of Permit Parking on the south side of the 1000 Block of Grady Ave between 10th St NW and 10 ½ St NW*

Background, Discussion, and Community Engagement:

On March 13, 2014 petitions for permit parking controls were received from residents of the 1000 block of Grady Ave, between 10th St NW and 10 ½ St NW. Petitions have been received from 100% of affected households between 10th St NW and 10 ½ St NW, exceeding the requirement of 75% set by City Code. These households lie only on the south side of Grady Ave. However, two on-street parking spaces exist on the north side of Grady Ave, just before a CAT bus stop. These two spaces were considered in the survey conducted by City Staff.

April 24, 29 and 30, 2014, City staff conducted parking surveys in accordance with City Code. We found that 84% of the 6 available on-street parking spaces, as determined in accordance with City Code, were filled and that 66% of available on-street parking was occupied by commuter vehicles. City Code requires that 75% of available on-street parking be filled and that 50% of available on-street parking spaces be occupied by commuter vehicles in order for a given block to qualify for the establishment of permit parking controls. These figures include the parking on both sides of the street. The table below demonstrates that the warrants are also met when the parking on each side of the street is considered independently of the other.

North		South	
Commuter	Total	Commuter	Total
80%	80%	59%	86%

City staff also looked at any existing parking issues in the block between 10 ½ St NW and 11th St NW. Total parking utilization in that block was consistently well below 50%. City Staff does not believe that restricting parking between 10th St NW and 10 ½ St NW would create a commuter parking issue in the block between 10 ½ St NW and 11th St NW.

The existing handicap parking space on this block would remain a handicap parking space, not subject to permit parking controls.

Alignment with City Council’s Vision and Priority Areas:

Approval of this resolution aligns with City Council’s Vision of Charlottesville as a **Smart, Citizen-Focused Government** by providing a service to the residents of Grady Ave that protects their ability to park within a reasonable distance of their homes through pragmatic, low-cost, and ultimately effective means.

Budgetary Impact:

Minimal – cost for new signs and posts. A small amount of revenue will be received through the administration of parking permits

Recommendation:

Staff recommends the approval of this resolution, establishing only the south side of the 1000 Block of Grady Ave as a permit parking control block.

Alternatives:

- 1) Install permit parking controls on both sides of the 1000 Block of Grady Ave between 10th St NW and 10 ½ St NW.
- 2) Leave parking unrestricted on the 1000 block of Grady Ave.

Attachments:

None

RESOLUTION
APPROVING THE 1000 BLOCK OF GRADY AVENUE
BETWEEN 10th STREET, N.W. AND 10½ STREET, N.W.
AS A RESTRICTED PARKING AREA

WHEREAS, residents of the 1000 block of Grady Avenue between 10th Street, N.W. and 10½ Street, N.W. have requested that City Council designate that block as a restricted parking area; and

WHEREAS, in accordance with City Code Section 15-201, *et seq.*, the City Traffic Engineer has conducted on street parking surveys and mailed notice to all residents of the affected area that Council will consider designating such area as a restricted parking area; and

WHEREAS, the surveys have shown that at least 75% of the total number of on street parking spaces in the proposed restricted parking area were occupied, and at least 50% of the total number of on street parking spaces in that area were occupied by commuter vehicles; and

WHEREAS, in accordance with City Code Section 15-203(b)(3), the City Manager has certified that the parking surveys have met the minimum parking occupancy requirements for permit parking controls; and

WHEREAS, Council has considered:

- (a) the purpose and intent of the permit parking ordinance and regulations;
- (b) the alternate means of transportation, if any, to and from the restricted parking area being established;
- (c) the adverse impact that restricting parking in such area might have on nearby neighborhoods that do not have permit parking;
- (d) the adverse impact that such restrictions may have on the non-residents of the proposed restricted parking area and their ability to find available parking near their place of work; and
- (e) the hours, if any, during which the proposed restricted parking area is affected by commuter vehicles; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville that the 1000 block of Grady Avenue between 10th Street, N.W. and 10½ Street, N.W. is hereby designated as a restricted parking area.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date: June 16, 2014
Action Required: Approval of Ordinance
Presenter: Allyson Manson-Davies, Deputy City Attorney
Staff Contacts: Allyson Manson-Davies, Deputy City Attorney
Miriam Dickler, Director of Communications
Title: Second Extension of Cable Television Franchise Agreement

Background: In November 2013, Comcast began negotiations with the city for renewal of its cable television franchise agreement. The ten-year franchise—granted in 2003—was due to expire at the end of 2013. On December 16, 2013, City Council approved a six-month extension to allow time for renewal negotiations with Comcast. The extension expires June 30, 2014.

Discussion: Cable television is regulated by the Federal Communications Commission and the locality pursuant to state law. In 2006, the General Assembly made significant changes to Virginia law governing local cable television franchises. The 2006 changes did not affect Charlottesville’s franchise as seven years remained under the agreement. Comcast’s franchise renewal is, however, affected by these changes.

Cable television franchises must be non-exclusive, and localities may only regulate cable operators in ways that do not disadvantage existing and/or new cable operators. Therefore, the terms of this franchise renewal affect other potential cable television operators and franchises, as well as future franchise agreements with Comcast. In addition, franchises are typically granted for terms ranging from 5 to 15 years. For these reasons, it is prudent to thoroughly consider the terms of the agreement.

City staff and Comcast representatives are meeting regularly to discuss franchise agreement terms. Additional negotiation sessions are required to achieve the best possible cable television franchise agreement. Once a draft agreement is finalized, Comcast’s initial legal review will take at least one to two weeks. Upon mutual approval of a final agreement, the City will provide the public with an opportunity for comment before the City Council’s adoption of the franchise renewal. Given the time constraints inherent in these transactions, it is not possible to finalize an agreement before the expiration of the franchise.

Further negotiation, drafting, and approval may be required if Comcast’s legal department takes issue with any of the draft agreement’s provisions. Given the potential of more than one round of review, and the ever-present possibility of unanticipated delays, a six month extension is recommended by staff. This should provide enough time to conclude negotiations, allow

adequate legal review by both Comcast and the City, gather input from the public, and allow City Council time to consider and adopt the new agreement.

Community Engagement: Before the franchise can be granted or denied, the public must be afforded adequate notice and opportunity for comment. The city's communications department has posted a preliminary draft agreement on the city's website for review by cable television subscribers and the community.

Alignment with City Council's Vision and Priority Areas: The agreement extension aligns with City Council's goal of having a smart, citizen-focused government, by enabling optimal local public, educational and governmental programming over the local cable network. City Council's goal of supporting the arts and culture is also enhanced by having an effective cable franchise agreement in place that carries locally produced programming.

Alternatives: Decline to adopt the ordinance and allow the cable franchise to expire.

Budgetary impact: None

Recommendation: Approval of the attached ordinance.

Attachments: Ordinance
Agreement Amendment

**AN ORDINANCE EXTENDING THE TERM OF A
FRANCHISE AGREEMENT WITH COMCAST CABLE**

WHEREAS, the City of Charlottesville and Comcast of California/ Maryland/ Pennsylvania/ Virginia/ West Virginia, LLC are currently parties to a cable Franchise Agreement, which is due to expire on June 30, 2014; and

WHEREAS, the parties are actively involved in negotiating terms for a franchise renewal agreement, and require additional time to do so; and

WHEREAS, the City Council of the City of Charlottesville hereby authorizes the City Manager to execute an amendment to the Franchise Agreement extending the term thereof to December 30, 2014; now, therefore,

BE IT ORDAINED that the City Manager is authorized to execute a second amendment to the Franchise Agreement extending the agreement until December 30, 2014, unless a renewal agreement is reached and executed between Franchisee and the City at an earlier date.

All other terms and conditions of the Franchise Agreement shall continue in full force and effect.

**AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE CITY OF
CHARLOTTESVILLE AND COMCAST OF CALIFORNIA/ MARYLAND/
PENNSYLVANIA/ VIRGINIA/ WEST VIRGINIA, LLC DATED NOVEMBER 21, 2003**

The parties to the above-described agreement hereby agree to the following:

Section 4.05 is amended by adding the following sentence:

The Franchise shall be extended until December 30, 2014, unless
and until a renewal agreement is reached and executed between
Franchisee and the City at an earlier date.

All other terms and conditions of the Franchise Agreement shall continue in full
force and effect.

CITY OF CHARLOTTESVILLE

By: _____
City Manager or designee

**Comcast of California/ Maryland/
Pennsylvania/ Virginia/ West Virginia,
LLC**

By: _____
John Conwell
Vice President, Government Affairs
Comcast Beltway Region

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date: July 7, 2014

Action Required: Adoption of Ordinance (Consent Agenda - 1st of 2 readings)

Staff Contacts: S. Craig Brown, City Attorney

**Title: Lumos Networks Inc.
Telecommunications Franchise Renewal**

Background: Lumos Networks Inc., successor to NTELOS Network, has requested a renewal of its current franchise to allow it to install new fiberoptic lines within City right-of-way and maintain its existing lines and equipment. Most of the new fiberoptic lines will be installed within the existing CenturyLink conduit, with a small segment installed within the Emmet Street right-of-way near Barracks Road, as shown on the attached drawing.

Discussion: The proposed franchise ordinance contains the same terms as the model telecommunications franchise ordinance developed by the City Attorney's Office and used in other franchises granted by the City. The purpose of the franchise will not change. In accordance with the franchise terms, Lumos is prepared to comply with the bonding and insurance requirements of the agreement.

Budgetary Impact: The proposed franchise has no anticipated budgetary impact. However, the franchise agreement reserves the right to impose a public right-of-way use fee as allowed by Virginia law through passage of an ordinance providing for such fee. Previously, Council has declined to adopt such a fee.

Recommendation: Approve the renewal of the franchise agreement.

Alternatives: Council may decline to adopt the ordinance and decline to renew the franchise agreement with Lumos Networks Inc.

Attachments: Letter requesting Franchise Renewal
Proposed Lumos Franchise Ordinance

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Our Technology Comes with People

One Lumos Plaza
Waynesboro, VA 22980

June 9, 2014

Ms. Barbara Ronan
City of Charlottesville
P. O. Box 911
605 East Main Street
Charlottesville, VA 22902

RE: Renewal of Franchise – Lumos Networks Inc.

Dear Barbara:

Please accept this letter as Lumos Networks Inc.'s formal request to renew the Charlottesville, Virginia Franchise that expired July 2013.

We reviewed and agree to the City's standard template for a 5-year franchise agreement that was sent to me on April 10, 2014. Also, attached are the maps depicting our existing and proposed fiber within Charlottesville.

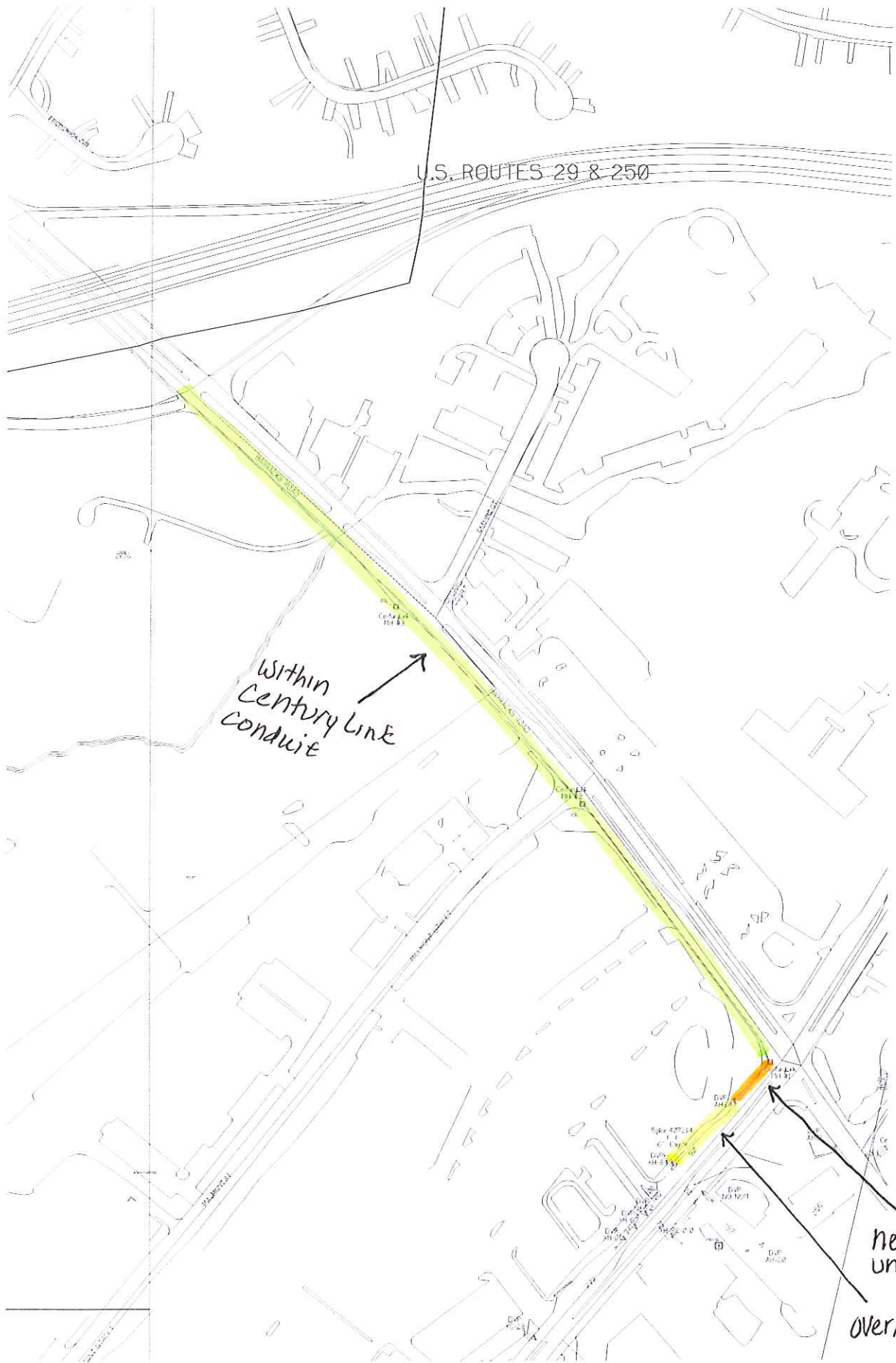
Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Anne Sarbin".

Anne Sarbin
Regulatory Manager

Attachments



U.S. ROUTES 29 & 250

Within Century Line conduit

new underground
overhead line

Approved by City Council on _____

**LUMOS NETWORKS INC.
TELECOMMUNICATIONS FRANCHISE**

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**AN ORDINANCE
GRANTING A TELECOMMUNICATIONS FRANCHISE TO
LUMOS NETWORKS INC., ITS SUCCESSORS AND ASSIGNS
TO USE THE STREETS AND OTHER PUBLIC PLACES
OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
FOR ITS POLE, WIRES, CONDUITS, CABLES AND FIXTURES,
FOR A PERIOD OF FIVE (5) YEARS**

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that NTELOS, Inc. (the “Company”), its successors and assigns, is hereby granted a telecommunications franchise for a period of five (5) years from the effective date hereof be and is hereby authorized and empowered to erect, maintain and operate certain telephone lines and associated equipment, including posts, poles, cables, wires and all other necessary overhead or underground apparatus and associated equipment on, over, along, in, under and through the streets, alleys, highways and other public places of the City of Charlottesville, Virginia (the “City”) as its business may from time to time require; provided that:

ARTICLE I

SECTION 101 PURPOSE AND SCOPE

To provide for the health, safety and welfare of its citizens and to ensure the integrity of its roads and streets and the appropriate use of the Public Rights-of-Way, the City strives to keep the right-of-way under its jurisdiction in a state of good repair and free from unnecessary encumbrances.

Accordingly, the City hereby enacts this Ordinance relating to a telecommunications right-of-way franchise and administration. This Ordinance imposes regulation on the placement and maintenance of Facilities and equipment owned by the Company currently within the City’s Public Rights-of-Way or to be placed therein at some future time. The Ordinance is intended to complement, and not replace, the regulatory roles of both state and federal agencies. Under this Ordinance, when excavating and obstructing the Public Rights-of-Way, the Company will bear financial responsibility for their work to the extent provided herein. Finally, this Ordinance provides for recovery of the City’s reasonable out-of-pocket costs related to the Company’s use of the Public Rights-of-Way, subject to the terms and conditions herein.

SECTION 102 AUTHORITY TO MANAGE THE RIGHT OF WAY

This Ordinance granting a telecommunications franchise is created to manage and regulate the Company’s use of the City’s Public Rights-of-Way along city roads pursuant to the authority granted to the City under Sections 15.2-2015, 56-460, and 56-462(A) of the Virginia Code and other applicable state and federal statutory, administrative and common law.

This Ordinance and any right, privilege or obligation of the City or Company hereunder, shall be interpreted consistently with state and federal statutory, administrative and common law, and such statutory, administrative or common law shall govern in the case of conflict. This Ordinance shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce other general ordinances necessary to protect the health, safety, and welfare of the public.

SECTION 103 DEFINITIONS

103.1 CITY means the City of Charlottesville, Virginia, a municipal corporation.

103.2 COMPANY means Lumos Networks Inc., including its successors and assigns.

103.3 DIRECTOR means the Director of Public Works for the City of Charlottesville.

103.4 FACILITY means any tangible asset in the Public Rights-of-Way required to provide utility service, which includes but is not limited to; cable television, electric, natural gas, telecommunications, water, sanitary sewer and storm sewer services.

103.5 PATCH means a method of pavement replacement that is temporary in nature.

103.6 PAVEMENT means any type of improved surface that is within the Public Rights-of-Way including but not limited to any improved surface constructed with bricks, pavers, bituminous, concrete, aggregate, or gravel or some combination thereof.

103.7 PUBLIC RIGHTS-OF-WAY or PROW means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the City has an interest, included other dedicated rights-of-way for travel purposes and utility easements of the City, paved or otherwise. This definition does not include a state highway system regulated pursuant to the direction of the Commonwealth Transportation Board.

ARTICLE II

SECTION 201 INITIAL INSTALLATION

The initial installation of equipment, lines, cables or other Facilities by the Company shall be a mixture of overhead and underground in Public Rights-of-Way as depicted in Exhibit A, attached hereto, and as may have been or may hereafter be modified, and incorporated by reference.

SECTION 202 SUBSEQUENT INSTALLATION

202.1 SUBSEQUENT INSTALLATION MADE PURSUANT TO AN APPROVED PROW PLAN:

Additional Facilities installed within the PROW may be placed overhead or underground pursuant to an approved request by the Company made pursuant to Article III, and in accordance with such generally applicable ordinances or regulations governing such

installations that have been adopted by the City from time to time.

202.2 GENERAL PREFERENCE FOR UNDERGROUND FACILITIES: As a matter of policy, the City prefers that the installation of any Facility within the PROW occur underground. Notwithstanding this preference, the City recognizes that in some circumstances the placement of Facilities underground may not be appropriate.

202.3 INSTALLATION OF OVERHEAD FACILITIES: Where a subsequent PROW plan is approved for overhead installation, the Company shall use its existing Facilities, or those of another utility where available. If the PROW plan calls for overhead installation and existing Facilities cannot accommodate the proposed installation, the Company will clearly indicate in the PROW plan its intended placement of new Facilities for the Director's review and consideration pursuant to Article III.

202.4 FUTURE ORDINANCES: Nothing herein shall be construed to limit the authority of the city to adopt an ordinance that will restrict the placement of overhead lines for all utilities using the PROW within a defined area of the City.

202.5 CONDITIONS FOR RELOCATING UNDERGROUND: The Company agrees that if, at some future time, the telephone and other utility lines on the posts, poles, and other overhead apparatus upon which the Company has placed some or all of its Facilities in the City's PROWs are relocated underground, the Company will also, at such time, relocate its Facilities on those posts, poles, and other overhead apparatus underground at its expense. Notwithstanding the foregoing, the City shall reimburse Company for any such relocation expense if such reimbursement is required by Section 56-468.2 of the Code of Virginia, or other applicable law.

SECTION 203 INSPECTION BY THE CITY

The Company shall make the work-site available to the City and to all others as authorized by law for inspection at all reasonable times, during the execution of, and upon completion of, all work conducted pursuant to this Ordinance.

SECTION 204 AUTHORITY OF THE CITY TO ORDER CESSATION OF EXCAVATION

At the time of inspection, or any other time as necessary, the City may order the immediate cessation and correction of any work within the Public Rights-of-Way which poses a serious threat to the life, health, safety or well being of the public.

SECTION 205 LOCATION OF POSTS, POLES, CABLES AND CONDUITS

In general, all posts, poles, wires, cables and conduits which the Company places within the Public Rights-of-Way pursuant to this Ordinance shall in no way permanently obstruct or

interfere with public travel or the ordinary use of, or the safety and convenience of persons traveling through, on, or over, the Public Rights-of-Way within the City of Charlottesville.

SECTION 206 OBSTRUCTION OF THE PROW

Generally, any obstruction of the PROW is limited to the manner clearly specified within an approved PROW plan.

206.1 REMOVAL OF OBSTRUCTIONS: Obstructions of the PROW not authorized by an approved PROW plan shall be promptly removed by the Company upon receipt of notice from the City. The City's notice of the Obstruction will include a specified reasonable amount of time determined by the Director for the Company's removal of the obstruction, given the location of the obstruction and its potential for an adverse effect on the public's safety and the public's use of the PROW. If the Company has not removed its obstruction from the PROW within the time designated within the notice, the City, at its election, will make such removal and the Company shall pay to the City its reasonable costs within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within the thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the removal and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to administrative, overhead mobilization, material, labor, and equipment related to removing the obstruction.

206.2 NO OBSTRUCTION OF WATER: The Company shall not obstruct the PROW in a manner that interferes with the natural free and clear passage of water through the gutters, culverts, ditches tiles or other waterway.

206.3 PARKING, LOADING AND UNLOADING OF VEHICLES SHALL NOT OBSTRUCT THE PROW: Private vehicles of those doing work for the Company in the PROW must be parked in a manner that conforms to the City's applicable parking regulations. The loading or unloading of trucks must be done in a manner that will not obstruct normal traffic within the PROW, or jeopardize the safety of the public who use the PROW.

ARTICLE III

SECTION 301 ADMINISTRATION OF THE PUBLIC RIGHTS OF WAY

The Director is the principal City official responsible for the administration of this Ordinance granting a telecommunications franchise to the Company and any of its PROW Plans. The Director may delegate any or all of the duties hereunder to an authorized representative.

SECTION 302 SUBMISSION OF PROW PLAN

At least thirty (30) days before beginning any installation, removal or relocation of underground or overhead Facilities, the Company shall submit detailed plans of the proposed action to the Director for his or her review and approval, which approval shall not unreasonably be withheld, conditioned, or delayed.

SECTION 303 GOOD CAUSE EXCEPTION

303.1 WAIVER: The Director, at his or her sole judgment, is authorized to waive the thirty (30) day requirement in Section 302 for good cause shown.

303.2 EMERGENCY WORK: The Company shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The Company will proceed to take whatever actions are necessary to respond to the emergency, or as directed by the Director.

If the City becomes aware of an emergency regarding the Company's facilities, the City will attempt to contact the Company's emergency representative as indicated in Section 1202. In any event, the City shall take whatever action it deemed necessary by the Director to make an appropriate and reasonable response to the emergency. The costs associated with the City's respond shall be borne by the person whose facilities occasioned the emergency.

SECTION 304 DECISION ON PROW PLAN BY THE DIRECTOR

304.1 DECISION: The Director, or his or her authorized representative, shall, within thirty (30) days, either approve the Company's plans for proposed action as described in Section 302 or inform the Company of the reasons for disapproval. The Company shall designate a responsible contact person with whom officials of the Department of Public Works can communicate on all matters relating to equipment installation and maintenance.

304.2 APPEAL: Upon written request within thirty (30) days of the Director's decision, the Company may have the denial of a PROW Plan reviewed by the City Manager. The City Manager will schedule its review of the Director's decision within forty-five (45) days of receipt of such a request. A decision by the City Manager will be in writing and supported by written findings establishing the reasonableness of its decision.

SECTION 305 MAPPING DATA

Upon completion of each project within the Public Rights-of-Way pursuant to this Ordinance, the Company shall provide to the City such information necessary to maintain its records, including but not limited to:

- (a) location and elevation of the mains, cables, conduits, switches, and related equipment and other Facilities owned by the Company located in the PROW, with

the location based on (i) offsets from property lines, distances from the centerline of the Public Rights-of-Way, and curb lines; (ii) coordinates derived from the coordinate system being used by the City; or (iii) any other system agreed upon by the Company and the City;

- (b) the outer dimensions of such Facilities; and
- (c) a description of above ground appurtenances.

ARTICLE IV

SECTION 401 COMPLIANCE WITH ALL LAW AND REGULATIONS

Obtaining this telecommunications franchise shall in no way relieve the Company of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any applicable state or federal rule, law or regulation. The Company shall comply with and fulfill all generally applicable laws and regulations, including ordinances, regulations and requirements of the City, regarding excavations and any other work in or affecting the Public Rights-of-Way. The Company shall perform all work in conformance with all applicable codes and established rules and regulations, and it is responsible for all work conducted by the Company, another entity or person acting on its behalf pursuant to this Ordinance in the Public Rights-of-Way.

ARTICLE V

SECTION 501 RELOCATION OF COMPANY FACILITIES WITHIN THE PUBLIC RIGHTS-OF WAY

Upon written notice from the Director of a planned and authorized improvement or alteration of City sidewalks, streets or other property, or of a proposed relocation of any City-owned utilities that necessitate relocation of some or all of the Facilities owned by the Company and lines to accommodate same, the Company shall relocate at its own expense any such Facilities within one hundred eighty (180) days of receipt of the notice. At Company's request, the city may consent to a longer period, such consent not to be unreasonably or discriminatorily withheld, conditioned or delayed. Notwithstanding the foregoing, the City shall reimburse Company for any such relocation expense if such reimbursement is required by Section 56-468.2 of the Code of Virginia, or other applicable law.

SECTION 502 RIGHTS-OF WAY PATCHING AND RESTORATION

502.1 RESTORATION STANDARD: Where the Company disturbs or damages the Public Rights-of-Way, the Director shall have the authority to determine the manner and extent of the restoration of the Public Rights-of-Way, and may do so in written procedures of general application or on a case-by-case basis. In exercising this authority, the Director will

consult with any state or federal standards for rights-of-way restoration and shall be further guided by the following considerations:

- (a) the number, size, depth and duration of the excavations, disruptions or damage to the Public Rights-of-Way;
- (b) the traffic volume carried by the Public Rights-of-Way; the character of the neighborhood surrounding the right-of-way;
- (c) the pre-excavation condition of the Public Rights-of-Way and its remaining life expectancy;
- (d) the relative cost of the method of restoration to the Company balanced against the prevention of an accelerated deterioration of the right-of-way resulting from the excavation, disturbance or damage to the Public Rights-of-Way; and
- (e) the likelihood that the particular method of restoration would be effective in slowing the depreciation of the Public Rights-of-Way that would otherwise take place.

502.2 TEMPORARY SURFACING: The Company shall perform temporary surfacing patching and restoration including, backfill, compaction, and landscaping according to standards determined by, and with the materials determined by, the Director .

502.3 TIMING: After any excavation by the Company pursuant to this Ordinance, the patching and restoration of the Public Rights-of-Way must be completed promptly and in a manner determined by the Director.

502.4 GUARANTEES: The Company guarantees its restoration work and shall maintain it for twenty-four (24) months following its completion. The previous statement notwithstanding, the Company will guarantee and maintain plantings and turf for twelve (12) months. During these maintenance periods, the Company shall, upon notification by the City, correct all restoration work to the extent necessary, using the method determined by the Director. Such work shall be completed after receipt of notice from the Director, within a reasonably prompt period, with consideration given for days during which work cannot be done because of circumstances constituting force majeure. Notwithstanding the foregoing, the Company's guarantees set forth hereunder concerning restoration and maintenance, shall not apply to the extent another company, franchisee, licensee, permittee, other entity or person, or the City disturbs or damages the same area, or a portion thereof, of the Public Rights-of-Way.

502.5 DUTY TO CORRECT DEFECTS: The Company shall correct defects in patching, or restoration performed by it or its agents. Upon notification from the City, the Company shall correct all restoration work to the extent necessary, using the method determined by the Director. Such work shall be completed after receipt of the notice from the Director

within a reasonably prompt period, with consideration given for days during which work cannot be done because of circumstances constituting force majeure.

502.6 FAILURE TO RESTORE: If the Company fails to restore the Public Rights-of-Way in the manner and to the condition required by the Director pursuant to Section 502.5, or fails to satisfactorily and timely complete all restoration required by the Director pursuant to the foregoing, the City shall notify the Company in writing of the specific alleged failure or failures and shall allow the Company at least ten (10) days from receipt of the notice to cure the failure or failures, or to respond with a plan to cure. In the event that the Company fails to cure, or fails to respond to the City's notice as provided above, the City may, at its election, perform the necessary work and the Company shall pay to the City its reasonable costs for such restoration within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within the thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the restoration and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to, administrative, overhead mobilization, material, labor, and equipment related to such restoration.

502.7 DAMAGE TO OTHER FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY: The Company shall be responsible for the cost of repairing any Facilities existing within the Public Rights-of-Way that it or the Facilities owned by the Company damage. If the Company damages the City's Facilities within the Public Rights-of-Way, such as, but not limited to, culverts, road surfaces, curbs and gutters, or tile lines, the Company shall correct the damage within a prompt period after receiving written notification from the City. If the Company does not correct the City's damaged Facilities pursuant to the foregoing, the City may make such repairs as necessary and charge all of the reasonable costs of such repairs within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within such thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the restoration and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to, administrative, overhead mobilization, material, labor, and equipment related to such repair.

502.8 DIRECTOR'S STANDARD: All determinations to be made by the Director with respect to the manner and extent of restoration, patching, repairing and similar activities under the franchise granted by this Ordinance, shall be reasonable and shall not be unreasonably conditioned, withheld, or delayed. The Company may request additional time to complete restoration, patching, repair, or other similar work as required under the franchise granted by this Ordinance, and the Director shall not unreasonably withhold, condition, or delay consent to such requests.

ARTICLE VI

SECTION 601 INDEMNIFICATION AND LIABILITY

601.1 SCOPE OF INDEMNIFICATION: Subject to the following, the Company agrees and binds itself to indemnify, keep and hold the City council members, Board and its employees free and harmless from liability on account of injury or damage to persons, firms or corporations or property growing out of or directly or indirectly resulting from:

- (a) the Company's use of the streets, alleys, highways, sidewalks, rights-of-way and other public places of the City pursuant to the franchise granted by this Ordinance;
- (b) the acquisition, erection, installation, maintenance, repair, operation and use of any poles, wires, cables, conduits, lines, manholes, facilities and equipment by the Company, its authorized agents, subagents, employees, contractors or subcontractors; or
- (c) the exercise of any right granted by or under the franchise granted by this Ordinance or the failure, refusal or neglect of the Company to perform any duty imposed upon or assumed by the Company by or under the franchise granted by this Ordinance.

601.2 DUTY TO INDEMNIFY, DEFEND AND HOLD HARMLESS: If a suit arising out of subsection (a), (b), (c) of Section 601.1, claiming such injury, death, or damage shall be brought or threatened against the City, either independently or jointly with the Company, the Company will defend, indemnify and hold the City harmless in any such suit, at the cost of the Company, provided that the City promptly provides written notice of the commencement or threatened commencement of the action or proceeding involving a claim in respect of which the City will seek indemnification hereunder. The Company shall be entitled to have sole control over the defense through counsel of its own choosing and over settlement of such claim provided that the Company must obtain the prior written approval of City of any settlement of such claims against the City, which approval shall not be unreasonably withheld or delayed more than thirty (30) days. If, in such a suit, a final judgment is obtained against the City, either independently or jointly with the Company, the Company will pay the judgment, including all reasonable costs, and will hold the City harmless therefrom.

SECTION 602 WAIVER BY THE CITY

The City waives the applicability of these indemnification provisions in their entirety if it:

- (a) elects to conduct its own defense against such claim;

- (b) fails to give prompt notice to the Company of any such claim such that the Company's ability to defend against such claim is compromised;
- (c) denies approval of a settlement of such claim for which the Company seeks approval; or
- (d) fails to approve or deny a settlement of such claim within thirty (30) days of the Company seeking approval.

SECTION 603 INSURANCE

603.1 The Company shall also maintain in force a comprehensive general liability policy in a form satisfactory to the City Attorney, which at minimum must provide:

- (a) verification that an insurance policy has been issued to the Company by an insurance company licensed to do business in the State of Virginia, or a form of self insurance acceptable to the City Attorney;
- (b) verification that the Company is insured against claims for personal injury, including death, as well as claims for property damage arising out of (i) the use and occupancy of the Public Rights-of-Way by the Company, its agents, employees and permittees, and (ii) placement and use of Facilities owned by the Company in the Public Rights-of-Way by the Company, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground Facilities and collapse of property;
- (c) verification that the City Attorney will be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;
- (d) verification that comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the City Attorney in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Ordinance; and
- (e) verification that the policy has a combined single limit coverage of not less than two million dollars (\$2,000,000).

The policy shall include the City as an additional insured party, and the Company shall provide the City Attorney with a certificate of such coverage before beginning installation of any lines, cable or equipment.

603.2 The Company shall also require similar indemnification and insurance coverage from any contractor working on its behalf in the public right-of-way.

SECTION 604 NEGLIGENCE AND INTENTIONAL ACTS

Nothing herein contained shall be construed to render the Company liable for or obligated to indemnify the City, its agents, or employees, for the negligence or intentional acts of the City, its Council members, its Board, its agents or employees, or a permittee of the City.

ARTICLE VII

SECTION 701 GENERAL REQUIREMENT OF A PERFORMANCE BOND

Prior to the Effective Date of this Ordinance, the Company has deposited with the City a Performance Bond made payable to the city in the amount of one hundred thousand dollars (\$100,000). The Performance Bond is to guarantee that the project is done in a proper manner without damage to the PROW. The bond shall be written by a corporate surety acceptable to the City and authorized to do business in the Commonwealth of Virginia. Upon completion of construction of the Facilities, the Company may reduce the Performance Bond to the amount of twenty-five thousand dollars (\$25,000) and made payable to the City, and the Performance Bond shall be maintained at this amount through the term of this Agreement.

SECTION 702 CHANGED AMOUNT OF THE PERFORMANCE BOND

At any time during the Term, the City may, acting reasonably, require or permit the Company to change the amount of the Performance Bond if the City finds that new risk or other factors exist that reasonably necessitate or justify a change in the amount of the Performance Bond. Such new factors may include, but not be limited to, such matters as:

- (a) material changes in the net worth of the Company;
- (b) changes in the identity of the Company that would require the prior written consent of the City;
- (c) material changes in the amount and location of Facilities owned by the Company;
- (d) the Company's recent record of compliance with the terms and conditions of this Ordinance; and
- (e) material changes in the amount and nature of construction or other activities to be performed by the Company pursuant to this Ordinance.

SECTION 703 PURPOSE OF PERFORMANCE BOND

The Performance Bond shall serve as security for:

- (a) the faithful performance by the Company of all terms, conditions and obligations of this Ordinance;
- (b) any expenditure, damage or loss incurred by the City occasioned by the Company's failure to comply with all rules, regulations, orders, permits and other directives of the City issued pursuant to this Ordinance;
- (c) payment of compensation required by this Ordinance;
- (d) the payment of premiums for the liability insurance required pursuant to this Ordinance ;
- (e) the removal of Facilities owned by the Company from the Streets at the termination of the Ordinance, at the election of the City, pursuant to this Ordinance;
- (f) any loss or damage to the Streets or any property of the City during the installation, operation, upgrade, repair or removal of Facilities by the Company;
- (g) the payment of any other amounts that become due to the City pursuant to this Ordinance or law;
- (h) the timely renewal of any letter of credit that constitutes the Performance Bond; and
- (i) any other costs, loss or damage incurred by the City as a result of the Company's failure to perform its obligations pursuant to this Ordinance.

SECTION 704 FEES OR PENALTIES FOR VIOLATIONS OF THE ORDINANCE

704.1 FEE OR PENALTY: The Company shall be subject to a fee or a penalty for violation of this Ordinance as provided for in applicable law.

704.2 APPEAL: The Company may, upon written request within thirty (30) days of the City's decision to assess a fee or penalty and for reasons of good cause, ask the City to reconsider its imposition of a fee or penalty pursuant to this Ordinance unless another period is provided for in applicable law. The City shall schedule its review of such request to be held within forty-five (45) days of receipt of such request from the Company. The City's decision on the Company's appeal shall be in writing and supported by written findings establishing the reasonableness of the City's decision. During the pendency of the appeal before the City or any subsequent appeal thereafter, the Company shall place any such fee or penalty in an interest-bearing escrow account.

Nothing herein shall limit the Company's right to challenge such assessment or the City's decision on appeal, in a court of competent jurisdiction.

ARTICLE VIII

SECTION 801 COMPENSATION/PROW USE FEE.

The City reserves the right to impose at any time on the Company consistent with Section 253(c) of the Communications Act of 1934, as amended:

- (a) a PROW Use Fee in accordance with Section 56-468.1(G) of the Code of Virginia, and/or
- (b) any other fee or payment that the City may lawfully impose for the occupation and use of the Streets.

The Company shall be obligated to remit the PROW Use Fee and any other lawful fee enacted by the City, so long as the City provides the Company and all other affected certificated providers of local exchange telephone service appropriate notice of the PROW Use Fee as required by Section 56-468.1(G) of the Code of Virginia. If the PROW Use Fee is eliminated, discontinued, preempted or otherwise is declared or becomes invalid, the Company and the City shall negotiate in good faith to determine fair and reasonable compensation to the City for use of the Streets by the Company for Telecommunications.

SECTION 802 FRANCHISING COSTS

Prior to the execution of this Ordinance, the City incurred costs for the services of third parties (including, without limitation, attorneys and other consultants) in connection with the award of this telecommunications Franchise. Within thirty (30) days after receipt from the City of an invoice for such costs, the Company shall pay at such time and in such manner as the City shall specify to the City or, at the direction of the City, to third parties an amount equal to the costs the City incurs for the services of such third parties. Payment by Company of such franchising costs shall not in any way be offset nor deducted from applicable PROW use fees required pursuant to Section 801 herein. In the event of any renewal, renegotiations, transfer, amendment or other modification of this Ordinance or the Franchise, the Company will reimburse the City in the same manner for such third party costs, if any are incurred. The Company's obligations under this Section shall not exceed two thousand five hundred dollars (\$2500.00).

SECTION 803 NO CREDITS OR DEDUCTIONS

The compensation and other payments to be made pursuant to Article VIII: (a) shall not be deemed to be in the nature of a tax, and (b) except as may be otherwise provided by Section 56-468.1 of the Code of Virginia, shall be in addition to any and all taxes or other fees or charges that the Company shall be required to pay to the City or to any state or federal agency or authority, all of which shall be separate and distinct obligations of the Company.

**SECTION 804 REMITTANCE OF COMPENSATION/LATE PAYMENTS,
INTEREST ON LATE PAYMENTS**

(1) If any payment required by this Ordinance is not actually received by the City on or before the applicable date fixed in this Ordinance, or (2), in the event the City adopts an ordinance imposing a PROW Use Fee, if such Fee has been received by the Company from its customers, and has not been actually received by the City on or before the applicable date fixed in this Ordinance or thirty (30) days after receipt of the PROW Use Fee from its customers, whichever is later, then the Company shall pay interest thereon, to the extent permitted by law, from the due date to the date paid at a rate equal to the rate of interest then charged by the City for late payments of real estate taxes.

ARTICLE IX

SECTION 901 RESERVATION OF ALL RIGHTS AND POWERS

The City reserves the right by ordinance or resolution to establish any reasonable regulations for the convenience, safety, health and protection of its inhabitants under its police powers, consistent with state and federal law. The rights herein granted are subject to the exercise of such police powers as the same now are or may hereafter be conferred upon the City. Without limitation as to the generality of the foregoing the City reserves the full scope of its power to require by ordinance substitution of underground service for overhead service, or the transfer of overhead service from the front to the rear of property whenever reasonable in all areas in the City and with such contributions or at such rates as may be allowed by law.

Notwithstanding anything herein to the contrary, nothing herein shall be construed to extend, limit or otherwise modify the authority of the City preserved under Sections 253 (b) and (c) of the Communications Act of 1934, as amended. Nothing herein shall be construed to limit, modify, abridge or extend the rights of the Company under the Communications Act of 1934, as amended.

SECTION 902 SEVERABILITY

If any portion of this Ordinance is for any reason held to be invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE X

SECTION 1001 MAINTENANCE OBLIGATION

The Company will maintain the poles, wires, cable, conduits, lines, manholes, equipment and other Facilities it owns within the City's PROW in good order and operating condition throughout the term of the franchise granted by this Ordinance.

SECTION 1002 TREE TRIMMING

Should the Company install any overhead lines, it shall have the authority to trim trees upon or overhanging the streets, alleys, walkways or Public Rights-of-Way to prevent the branches of such trees from interfering with its lines or other Facilities. However, all such trimmings shall be performed in a safe and orderly manner under the general direction of the Director of Public Works or his or her designee and in compliance with the pruning standards of the National Arborists Association as currently in effect.

ARTICLE XI

SECTION 1101 INITIAL TERM OF TELECOMMUNICATIONS FRANCHISE

The term of the franchise granted by this Ordinance shall be for a period of five (5) years from the effective date of this Ordinance.

SECTION 1102 APPLICATION FOR NEW TELECOMMUNICATIONS FRANCHISE

If the Company wishes to maintain its equipment within the City and to continue the operation of the system beyond the term of the franchise granted by this Ordinance, it shall give written notice to the City at least one hundred twenty (120) days before expiration of the franchise granted by this Ordinance, stating that it wishes to apply for a new franchise. Such application shall include a report of the location of the Facilities owned by the Company within the City's PROW, and a statement as to whether the Company has complied with the provisions of this Ordinance.

SECTION 1103 OPERATION OF FACILITIES OWNED BY THE COMPANY WHILE RENEWAL IS PENDING

Upon a timely request by the Company prior to the expiration of its initial franchise, the Company shall be permitted to continue operations of the Facilities owned by the Company within the City under the terms of the franchise granted by this Ordinance until the City acts. Nothing herein shall be construed to grant the Company a perpetual franchise interest.

ARTICLE XII

SECTION 1201 NOTICE

All notices, except for in cases of emergencies, required pursuant to the franchise granted by this Ordinance shall be in writing and shall be mailed or delivered to the following address:

To the Company:

Mary McDermott
Sr. V.P. – Legal and Regulatory Affairs
Lumos Networks Inc.
One Lumos Plaza
Waynesboro, VA 22980

To the City:

City of Charlottesville
Attn: City Manager
605 East Main Street
Charlottesville, VA 22902

With a copy to:

Anne Sarbin, Regulatory Manager
Lumos Networks Inc.
One Lumos Plaza
Waynesboro, VA 22980

With a copy to:

S. Craig Brown, City Attorney
City Attorney's Office
P.O. Box 911
Charlottesville, VA 22902

All correspondences shall be by registered mail, certified mail or regular mail with return receipt requested; and shall be deemed delivered when received or refused by the addressee. Each Party may change its address above by like notice.

SECTION 1202 EMERGENCY NOTIFICATION

Notices required pursuant to Section 303.2 shall be made orally and by facsimile to the following:

To the Company:

To the City:

Gas Dispatchers
(804) 970-3800 (office)
Emergency (804)293-9164 (leaks)
(804) 970-3817 (facsimile)

Judith Mueller, Director of Public Works
(804) 970-3301 (office)
(804) 970-3817 (facsimile)
(804) 971-6645 (home)

SECTION 1203 REGISTRATION OF DATA

The Company, including any subleasee or assigns, must keep on record with the City the following information:

- (a) Name, address and e-mail address if applicable, and telephone and facsimile numbers;
- (b) Name, address and e-mail address if applicable, and telephone and facsimile numbers of a local representative that is available for consultation at all times. This information must include how to contact the local representative in an emergency; and
- (c) A certificate of insurance as required under Article VI, Section 603 of this telecommunications franchise, and a copy of the insurance policy.

The Company shall keep update all of the above information with the City within fifteen (15) days following its knowledge of any change.

ARTICLE XIII

SECTION 1301 TERMINATION OF TELECOMMUNICATIONS FRANCHISE

The franchise granted by this Ordinance may be terminated:

- (a) by the Company, at its election and without cause, by written notice to the City at least sixty (60) days prior to the effective date of such termination; or
- (b) by either the Company or the City, after thirty (30) days written notice to the other party of the occurrence or existence of a default of the franchise granted by this Ordinance, if the defaulting party fails to cure or commence good faith efforts to cure, such default within sixty (60) days after delivery of such notice.

Notwithstanding the provisions of this Section, the terms and conditions of the franchise granted by this Ordinance pertaining to indemnification shall survive a termination under this Section.

ARTICLE XIV

SECTION 1401 REMOVAL OF FACILITIES FROM THE PUBLIC RIGHTS-OF-WAY

The Company shall remove all Facilities owned by the Company from the streets, alleys and public places of the City at the expense of the Company within six (6) months after the termination, abandonment, or expiration of this franchise granted by this Ordinance, or by such

reasonable time to be prescribed by the City Council, whichever is later. No such removal will be required while any renewal requests as provided for in Section 1102 and Section 1103, are pending before the City. If such renewal request is denied, the six (6) month period provided above shall commence on the date of denial or expiration, whichever is later. The City reserves the right to waive this requirement, as provided for in Section 1402 herein. The City shall grant the Company access to the Public Rights-of-Way in order to remove its telecommunications Facilities owned by the Company pursuant to this paragraph.

SECTION 1402 ABANDONMENT OF FACILITIES OWNED BY THE COMPANY IN THE PUBLIC RIGHTS-OF-WAY

The telecommunications Facilities owned by the Company may be abandoned without removal upon request by the Company and approval by the City. This Section survives the expiration or termination of this franchise granted by this Ordinance.

ARTICLE XV

SECTION 1501 PRIOR WRITTEN CONSENT FOR ASSIGNMENT

The franchise granted by this Ordinance shall not be assigned or transferred without the expressed written approval of the City, which shall not be unreasonably or discriminatorily conditioned, withheld or delayed.

In addition, the City agrees that nothing in this Ordinance shall be construed to require Company to obtain approval from the City in order to lease any Facilities owned by the Company or any portion thereof in, on, or above the PROW, or grant an indefeasible right of use (“IRU”) in the Facilities owned by the Company, or any portion thereof, to any entity or person. The lease or grant of an IRU in such Facilities owned by the Company, or any portion or combination thereof, shall not be construed as the assignment or transfer of any franchise rights granted under this Ordinance.

SECTION 1502 SUCCESSORS AND ASSIGNS

Notwithstanding Section 1501, the Company may assign, transfer, or sublet its rights, without the consent of the City, to any person or entity that controls, is controlled by or is under common control with the Company, any company or entity with which or into which the Company may merge or consolidate, to any lender of the Company provided the City is advised of the action prior to enactment. Any successor(s) of the Company shall be entitled to all rights and privileges of this franchise granted by this Ordinance and shall be subject to all the provisions, obligations, stipulations and penalties herein prescribed.

ARTICLE XVI

SECTION 1601 NONEXCLUSIVE FRANCHISE

Nothing in the franchise granted by this Ordinance shall be construed to mean that this is an exclusive franchise, as the City Council reserves the right to grant additional telecommunications franchises to other parties.

ARTICLE XVII

SECTION 1701 ALL WAIVERS IN WRITING AND EXECUTED BY THE PARTIES

Subject to the foregoing, any waiver of the franchise granted by this Ordinance or any of its provisions shall be effective and binding upon the Parties only if it is made in writing and duly signed by the Parties.

SECTION 1702 NO CONSTRUCTIVE WAIVER RECOGNIZED

If either Party fails to enforce any right or remedy available under the franchise granted by this Ordinance, that failure shall not be construed as a waiver of any right or remedy with respect to any breach or failure by the other Party. Nothing herein shall be construed as a waiver of any rights, privileges or obligations of the City or the Company, nor constitute a waiver of any remedies available at equity or at law.

ARTICLE XVIII

SECTION 1801 NO DISCRIMINATION

The Company's rights, privileges and obligations under the franchise granted by this Ordinance shall be no less favorable than those granted by the City to and shall not be interpreted by the City in a less favorable manner with respect to any other similarly situated entity or person or user of the City's Public Rights-of-Way.

ARTICLE XIX

SECTION 1901 FORCE MAJEURE

Neither the Company nor the City shall be liable for any delay or failure in performance of any part of the franchise granted by this Ordinance from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations embargoes, epidemics, terrorist acts, riots insurrections, fires,

explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, or unusually severe weather conditions.

ARTICLE XX

SECTION 2001 EFFECTIVE DATE

This Ordinance shall be effective upon its passage.

Adopted by the Council of the City of Charlottesville on the _____ day of _____, 2014.

Paige Rice, Clerk of Council

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

Agenda Date: July 7, 2014

Action Required: Vote on a request for a sidewalk waiver

Presenter: Brian Haluska, Senior Planner, Neighborhood Development Services

Staff Contact: Brian Haluska, Senior Planner, Neighborhood Development Services

Title: Sidewalk Waiver Request for 1629 Cambridge Circle

Background

Brice Craig has applied for a sidewalk waiver for property located at 1629 Cambridge Circle. The property is a newly constructed single-family residence. The applicant is requesting a waiver of the City's requirement for the construction of sidewalk on lots that are previously undeveloped.

Discussion

Section 34-1124(b) requires that sidewalk be constructed on "a previously unimproved lot or parcel...unless this requirement is waived by Council." The code section does not elaborate on the factors Council may consider in deciding to grant waiver, giving the Council broad discretion to make the decision.

City staff evaluate sidewalk waiver requests based on whether any engineering challenges exist that would require an undue financial burden on the applicant, if the sidewalk would cause a disproportionate increase in the cost of the City to maintain the sidewalk in the future (i.e. the need for retaining walls), the sidewalk's potential impact to nearby trees and utilities, and if there is sufficient right-of-way to construct the sidewalk without requiring additional right-of-way acquisition. City engineering staff examined the subject lot and found no topographic challenges that would lead to any undue cost to the applicant. Additionally, the City's Bicycle and Pedestrian Coordinator comments on all requests for sidewalk waivers. The Bicycle and Pedestrian Coordinator had no comment on the proposed waiver.

The justification from the applicant cites that the lot is a single lot on a block of previously developed lots, and that there are no adjacent sidewalk sections. The applicant also mentions the narrow street width, lack of pedestrian traffic, and concerns about stormwater runoff. The application also includes a letter from four nearby property owners and the applicant supporting the waiver request.

Citizen Engagement

No citizen engagement efforts have been undertaken.

Alignment with City Council's Vision and Priority Areas

The City Council Vision of a Connected Community states that “bike and pedestrian trail systems, sidewalks, and crosswalks enhance our residential neighborhoods.” Requiring that the sidewalk be constructed would be in keeping with the City Council’s vision.

Alignment with City Council's Comprehensive Plan

The first goal in the Transportation Chapter of the Comprehensive Plan states “Increase safe, convenient and pleasant accommodations for pedestrians, bicyclists and people with disabilities that improve quality of life within the community and within individual neighborhoods.”

The Barracks/Rugby Neighborhood Plan from 2006 contains the following statements pertaining to pedestrian connections in the neighborhood:

- The neighborhood wants a balance of different modes of transportation (multi-modal).
- Create sidewalks only on streets that neighbors want them.
- Speeding is an issue that compromises pedestrian safety. Correlate speed limit with the presence of sidewalks to increase walkability and bikeability.
- Create pedestrian and bicycle connections to McIntire Park in general and from Greenleaf Park following the stream corridor.

Budgetary Impact

This item has a small impact on the budget as a new sidewalk will require City maintenance once completed.

Recommendation

Following a review of the request, staff has made the following findings:

- There is no concern from Engineering staff regarding the ability to construct a sidewalk on the property, or with regards to the future maintenance of the sidewalk.
- The applicant’s concern about the safety of children on the street would be best served by the installation of a City standard sidewalk on the property, as it offers more of a vertical barrier than the existing granite curbs on Cambridge Circle.
- Walker School and Greenleaf Park are less than half a mile from the subject property, offering nearby amenities that residents may wish to walk to.

While staff acknowledges that single sections of sidewalk offer little in the way of pedestrian connections in the near term, single sidewalk sections do offer other amenities to a neighborhood such as a location for neighbors to temporarily step out of automobile traffic while holding a conversation, and a hard surface which children can legally play on. (Section 28-28 of the City Code prohibits children from playing in streets.)

Staff recommends the waiver request be denied.

Alternatives

None.

RESOLUTION
Denying a Sidewalk Waiver Request
1629 Cambridge Circle

WHEREAS, pursuant to Section 34-1124(b) of the City's Zoning Ordinance, application has been made for a waiver of the requirement for construction of a sidewalk at 1629 Cambridge Circle, where a single family house was recently constructed; and,

WHEREAS, City staff has submitted to Council comments and recommendations regarding the sidewalk waiver request, and Council has reviewed staff's comments as well as the application materials submitted by the applicant; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the sidewalk waiver request for 1629 Cambridge Circle is hereby denied, for the following reasons:

1. This request does not present any unusual situation, such as topography or other site challenges;
2. The information presented to Council does not indicate that the requirement for a sidewalk, as set forth within City Code 34-1124(b) will result in any substantial injustice or hardship; and
3. Opportunities to obtain sidewalk improvements and thereby to promote pedestrian travel within the City may arise only during the development or redevelopment of properties, and in this situation it is Council's determination that the benefit of establishing a segment of sidewalk on Cambridge Circle will serve the public necessity, convenience, general welfare and good zoning practice.

RESOLUTION
Approving a Sidewalk Waiver Request
1629 Cambridge Circle

WHEREAS, application has been made for a waiver of the requirement under City Code Section 34-1124(b) for the construction of a sidewalk at 1629 Cambridge Circle, where a single family house was recently constructed on an unimproved lot; and,

WHEREAS, City staff has submitted to Council comments and recommendations regarding the sidewalk waiver request, and Council has reviewed the staff recommendations and the information and materials submitted with the application; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia that the sidewalk waiver request for 1629 Cambridge Circle is hereby approved, upon a finding that the following circumstances create an unusual situation:

1. There are currently no existing sidewalks located on property on either side of this lot; and
2. The Barracks/Rugby Neighborhood Plan (2006) supports the creation of sidewalks only on streets where the neighborhood residents want them, and four nearby property owners have indicated that they support this waiver request.



WAIVER REQUEST FORM

Please Return To: City of Charlottesville
 Department of Neighborhood Development Services
 PO Box 911, City Hall
 Charlottesville, Virginia 22902
 Telephone (434) 970-3182 Fax (434) 970-3359

BN-13-0428

RECEIVED
 MAY 09 2014
 NEIGHBORHOOD DEVELOPMENT SERVICES

For a Critical Slopes Waiver Request, please include one of the following application fees: \$75 for single-family or two-family projects; \$500 for all other project types. **additional application form required*
 For all other Waiver Requests, please include one of the following application fees: \$50 for single-family or two-family projects; \$250 for all other project types.

Project Name/Description Brice Craig Parcel Number 380068000
 Address/Location 1629 Cambridge Circle
 Owner Name Craig Enterprises, Inc. Applicant Name Brice Craig

Applicant Address: POB 6156, Charlottesville, VA 22906
 Phone (H) _____ (W) 531-0364 (F) _____
 Email: _____

- Waiver Requested (review Zoning Ordinance for items required with waiver submissions):
- Sidewalk _____ Drainage/Storm Water Management
 - *Contact Staff for Supplemental Requirements _____ Off-street Parking
 - Site Plan Review _____ Lighting
 - Landscape _____ Signs
 - Setbacks _____ Critical Slopes **additional application form required*
 - Communication Facilities _____ Other _____
 - Stream Buffer Mitigation Plan _____

Description of Waiver Requested: Sidewalk improvements for 1629 Cambridge Circle

Reason for Waiver Request: See attachments

Applicant Signature _____ Date _____

Property Owner Signature (if not applicant) _____ Date _____

For Office Use Only: Date Received: 5/9/2014
 Review Required: Administrative _____ Planning Commission _____ City Council X
 Approved: _____ Denied: _____ Director of NDS _____
 Comments: _____

pd. \$ 50.00 ch # 1569 on 5/9/14

May 8, 2014

Mr. Brian Haluska
Neighborhood Planner
City of Charlottesville

RE: 1629 Cambridge Circle Sidewalk Waiver Request

Dear Brian,

Please find the sidewalk waiver request and support statement from Kirk Hughes and Associates. I would also personally like to request the right to waive the sidewalk as the homeowner and builder representative at 1629 Cambridge Circle and am presenting a signed letter from my direct neighbors to the property whom are also in opposition of the sidewalk installation. The neighborhood and myself would like to offer the following concerns on top of Kirk Hughes and Associates engineering concerns.

- The main concern is the natural beauty of the landscaping and grass of Cambridge Circle. We all cherish the character of the street.
- It is a very narrow road at roughly 18.5 feet. We are concerned that if there is a sidewalk installed and 2 cars are passing each other that a child playing on the sidewalk would be in danger
- There is very little pedestrian or automobile traffic on Cambridge Circle.
- There aren't any amenities around this street that people would be walking to
- The property is located on a hill creating a large slope into the street. I'm worried that the construction of a sidewalk would require a retaining wall or other high maintenance items in order to make it navigable and we're concerned about the erosion from water run off.
- We're concerned about the environmental impact of installing a concrete structure because of the adverse impact production of concrete has on the environment as well as the long term adverse effects to the grass, trees, and plants from water run off.
- We're concerned about long term maintenance of the sidewalk

Thank you for taking the time to look at some of our concerns. I hope you will support our concerns and wishes.

Respectfully,



Brice Craig

Residents of Cambridge Circle
Charlottesville VA, 22903
May 6, 2014

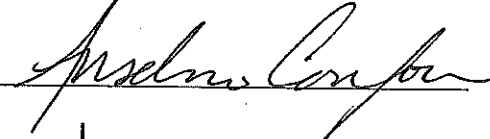
Re: 1629 Cambridge Circle Sidewalk waiver request


Charlottesville City Council Members
Charlottesville, VA

Dear Council Members,

We would like to support the waiver request to not install a sidewalk in the front of 1629 Cambridge Circle's property. As residents of Cambridge Circle and direct neighbors to 1629 Cambridge Circle we cherish the natural beauty of the street and are concerned with the environmental impact, safety, and overall destruction of our neighborhoods charm and character by installing 70 foot strip of sidewalk at 1629 Cambridge Circle. Please take our concerns into consideration when making your decision to accept the request to waive the requirement for this strip of sidewalk. Thank you.

Address 1620 CAMBRIDGE CIRCLE Signature 

Address 1720 Bruce Ave. Signature 

Address 1622 Cambridge Cir Signature 

Address 1618 Cambridge Circle Signature Jean Straughan

Address 1629 Cambridge Circle Signature Jal B Y



May 8, 2014

Mr. Brian Haluska, AICP
Neighborhood Planner
City of Charlottesville
610 East Market Street
Charlottesville, Virginia 22902

RE: #1629 Cambridge Circle
Sidewalk Waiver Request
Charlottesville, Virginia

Dear Brian,

On behalf of Mr. Brice Craig of #1629 Cambridge Circle please find the following Sidewalk Waiver Request Support Statement.

Mr. Craig has built a new home on the last lot in Rugby Hills, Block J, fronting on Cambridge Circle having a 20' travelway constructed with concrete curbs. No sidewalks exist along its length and no drainage structures except at the intersection of Cambridge Circle and Wellford Street (see attached GIS). Installing 5' sidewalk on this lot, which would abut to the existing curb will require excavating the yard, relocating utilities and retaining the slope along the back of the sidewalk (see attached Exhibit A).

Pursuant to Sec. 29-182, (j-3) of the Charlottesville, Virginia, Code of Ordinances the properties that adjoin this parcel do not have an existing sidewalk to allow for connection as required. The nearest neighborhood sidewalk is approximately 600 feet away and runs along and parallel to Rugby Avenue. The connection to this sidewalk above would require participation and impact multiple property owners; offsite engineering design.

It's good engineering practice to first plan and design the sidewalk with the proper storm inlets and pipes throughout the length of Cambridge Circle. The existing travelway profile is steep and has sections which the grade is in excess of 8% making the hydraulic design a must. Without the engineering first you risk placing random sections of sidewalk which could be ripped up to install future drainage structures.

Although I support pedestrian traffic and pathways at every opportunity it is my opinion that the construction of City Standard Sidewalk along the front of this lot would be detrimental to the character of the neighborhood as existing properties in this area have established landscaping, utilities, entrances and paved driveways that would be greatly impacted by sidewalk construction.

I trust the above adequately addresses Mr. Craig's concerns and wish your support with granting this request.

Respectfully submitted,
Sincerely,

Kirk Hughes, L.S.
Principal

KH/qh
Attachment(s):
Cambridge Circle.pdf.
Exhibit A

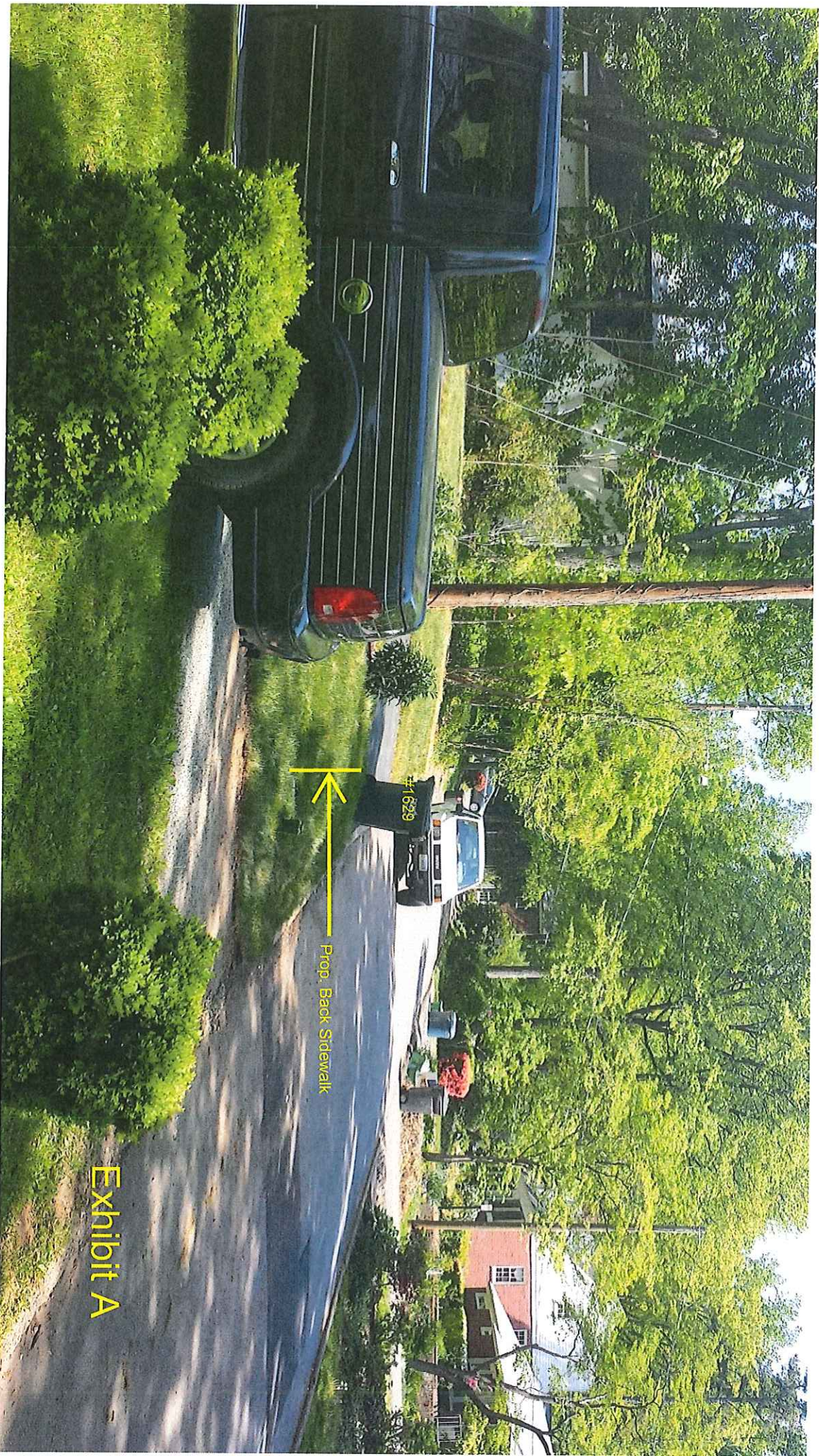
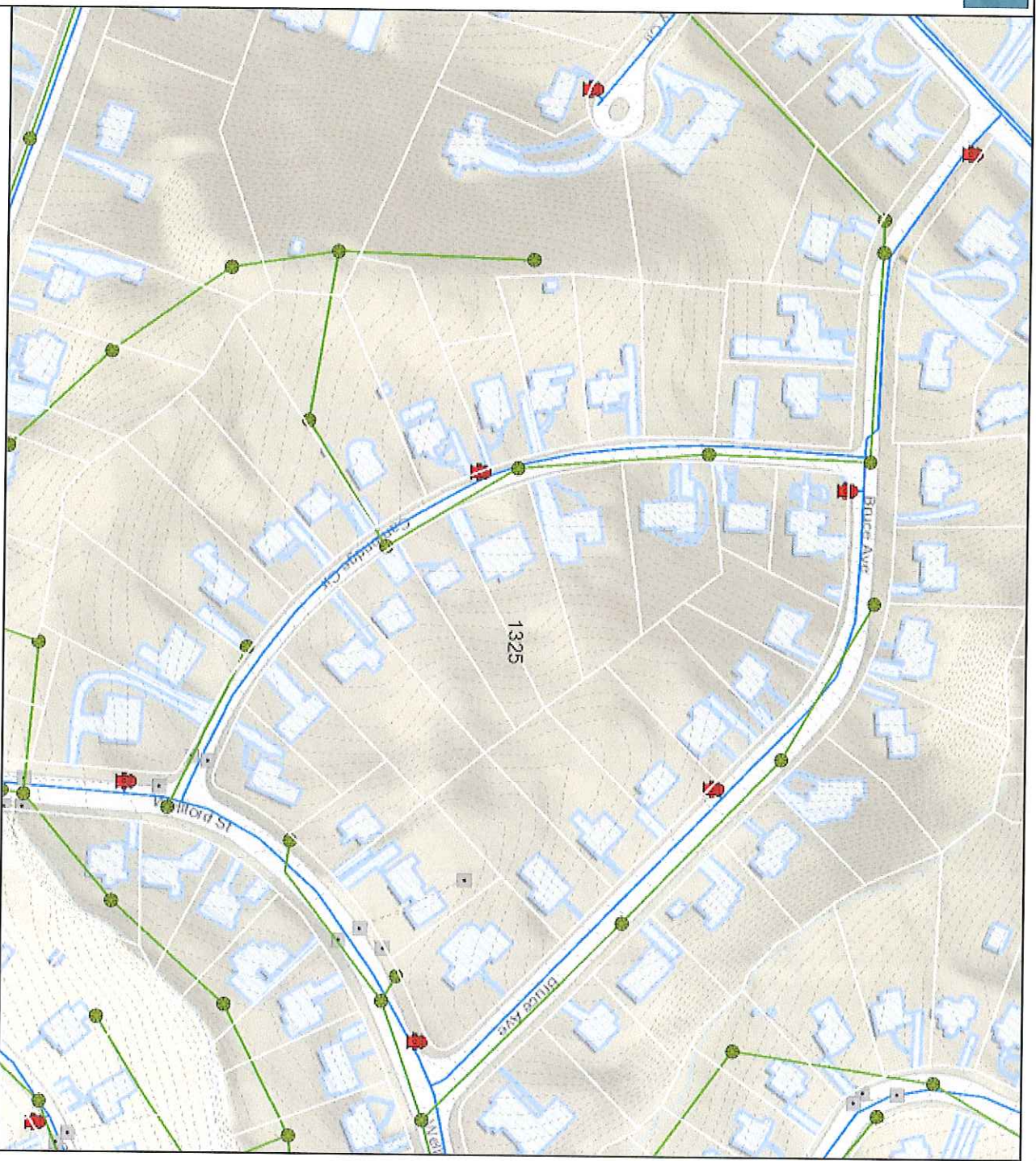
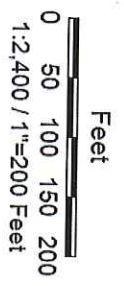


Exhibit A

Legend

- Parcels
- Addresses
- Sanitary Manhole
- Sanitary Line
- Storm Structure
- Storm Line
- Water Hydrant
- Water Line
- Impervious Area
- Elevation Contour Lines - 2ft (2006)



Title: Cambridge Circle

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Charlotteville is not responsible for its accuracy or how current it may be.

Date: 5/8/2014



Suggested Motions

- I move to approve this request for a waiver of sidewalk requirements at 1659 Cambridge Circle with the condition stated in the staff report.
- I move to deny this request for a waiver of sidewalk requirements at 1659 Cambridge Circle.

Attachments

Aerial and Site Photos
Application
Applicant's Narrative

Aerial Photo



Site Photos



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



Agenda Date: July 7, 2014

Action Required: Approval of Committee Members

Presenter: Jim Tolbert, AICP, Director, NDS

Staff Contacts: Jim Tolbert, AICP, Director, NDS

Title: **Clarification of Belmont Bridge Steering Committee and Appointment of Members**

Background: In 2013 in a report to City Council on the status of the Belmont Bridge project, the memo mentioned that the PLACE Design Task Force would be serving as the Steering Committee for the project. This was based on the charge approved when PLACE was created that provided for them to guide significant projects.

Purpose and Charge:

There is hereby created the PLACE Design Task Force to act as an advisory body to the Planning Commission charged with the following:

1. Advising on the urban design aspects of development projects on publicly owned or financed land and developing design criteria for such projects.
2. Reviewing the design of city capital projects and changes to existing public facilities.
3. Reviewing the proposals for public art.
4. Reviewing the status of landscape improvements and policies including tree cutting, maintenance and planting.
5. To develop best practices for urban design guidelines and their implementation.
6. Review of special projects as requested by City Council or the Planning Commission.
7. Identify the obstacles and recommend incentives for the redevelopment of our growth corridors.

8. Identify best practices for community engagement in planning and design and recommended processes.

The Task Force will be advisory to the Planning Commission and report to the Commission on a regular basis.

Discussion: Several months ago Council asked that we add neighborhood representatives to the Steering Committee. Based on that request staff contacted the four neighborhoods closest to the bridge to request names to serve on the committee, Belmont-Carlton, Ridge Street, Martha Jefferson, and Woolen Mills. The names submitted were:

Belmont-Carlton	Greg Jackson
Ridge Street	Charles Alexander Curtis, III
Martha Jefferson	Eberhard Jehle
North Downtown	David Repass

Complicating things to some degree, two of the neighborhoods submitted an “alternate” to their representative and one other individual indicated their neighborhood wanted her to be their alternate, although staff has not received notice of that request. The two that have submitted names are:

Ridge Street	Theresa Woodfolk
Martha Jefferson	Harry Holsinger

Because there is no formal policy that Council has adopted about how to appoint steering committees, staff needs guidance on how you would like to proceed with this particular steering committee and in the future believes we should develop a policy to guide future steering committees. Specific points that should be addressed:

- Should PLACE continue as the nucleus of the Steering Committee? Also, PLACE has designated three of its members to serve as a subcommittee to give themselves more flexibility with meeting deadlines. Those three members are:
 - Tim Mohr
 - Mark Watson
 - Scott Paisley
- The second question is whether Council is comfortable with the subcommittee and the neighborhood representatives constituting the steering committee. If

Council makes that decision then that group should replace PLACE as the Steering Committee. It is very difficult and expensive for the design team to have to answer to two groups.

- Is Council comfortable with the four neighborhood representatives put forward by their respective neighborhood?
- If so, do you want to allow any neighborhood that desires to appoint an alternate member, and if so, do you want to approve those?

Community Engagement: The only engagement on the issue of a Steering Committee has been the request to the neighborhoods for appointments.

Alignment with City Council's Vision and Strategic Plan: This item is not directly aligned with either of these directly.

Budgetary Impact: None

Recommendations: Staff is seeking guidance from Council and has no recommendations.

Alternative: Alternatives for the make-up of the committee are outlined above in the discussion section. An alternative action might be to discuss the committee organization and how appointments are made at the regular Council meeting and then to discuss the specific individuals in closed section.

Attachment: None

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Rivanna Water & Sewer Authority
Rivanna Solid Waste Authority
695 Moores Creek Lane
Charlottesville, Virginia 22902-9016
434.977.2970 • 434.293.8858 Fax
www.rivanna.org

MEMORANDUM

**TO: THE HONORABLE ALBEMARLE COUNTY SUPERVISORS
THE HONORABLE MAYOR AND CITY COUNCIL**

**FROM: THOMAS L. FREDERICK, EXECUTIVE DIRECTOR
RIVANNA WATER & SEWER AUTHORITY
RIVANNA SOLID WASTE AUTHORITY**

SUBJECT: QUARTERLY UPDATE

DATE: JUNE 4, 2014

I am preparing this in advance of scheduled quarterly briefing to the Board of Supervisors and City Council for June 2014. I can cover whatever topics Supervisors or Councilors are interested in, but will start with the following outline:

1. Schenks Branch Interceptor Easements: As Supervisors and Councilors are now aware, RWSA needs the support of elected officials to obtain easements to replace a section of RWSA's Schenks Branch Interceptor within the McIntire Road valley between Preston Avenue and Harris Street. This is the last of four segments to replace the entire length of this 1950s interceptor with a new pipe adequate in size to reasonably provide for wet weather flow, with the first three segments now completed. The preferred route is on property owned by the City (Schenks Greenway) and the County (County Office Building and baseball field), adjacent to and just beyond the shoulder of McIntire Road. The road shoulder is already congested with multiple utilities, making excavations to depths required for the sewer not practicable. A second option is under the road, but workplace public safety would thereby demand the road be closed and traffic detoured during construction work of several months, and City staff has expressed significant concerns of the effect of road closure on the City, particularly the business in the downtown area.

RWSA's proposed replacement of this interceptor is a part of its master plan initiated in 2006 to upgrade its system to minimize wet weather sewer overflows, and this plan was restated in a Consent Order with the Virginia Department of Environmental Quality (DEQ) in 2011. The Order requires RWSA to provide a milestone schedule by June 30, 2014 carrying the project through construction if RWSA receives easements from the County and City by June 17. Otherwise, the submission of a milestone schedule is extended to September 30, 2014, but requires RWSA to identify alternative routes that avoids the City or County properties. Alternative routes would be much more expensive; therefore, we strongly believe the public's best interest is served by finding a way to an agreement to allow the preferred route.

Negotiations for an easement on the County property, which is part of the preferred route, have recently evolved into issues that can only be resolved by direct negotiation between the County and City. We encourage elected officials to find a “win-win” as soon as possible, further recognizing that completing this project is also a “win” for the aquatic environment.

2. Water Treatment Plant Granular Activated Carbon Improvements: GAC facilities for the Crozet and Scottsville Water Treatment Plants is currently out for bids with a contract award occurring as soon as June 24, 2014 and completion expected by February 2016. Final design of the GAC facilities for the Urban Water Plants is expected in August with bidding this fall and the beginning of construction by the end of 2014. As discussed with the public during the drinking water symposium and public hearing held in June and July 2012, before the GAC decision was made, GAC technology will require an increase in the cost of drinking water, but is excellent advanced technology which will provide our citizens a quality of drinking water unmatched in all but a “handful” of communities throughout the country. We are also “blessed” by the decision which proudly originated from our own citizens to “stay within our own watershed” with our long-term water supply, as we were reminded by the railroad crude oil spill in the James River near Lynchburg a few weeks ago.
3. Ragged Mountain Dam: Construction of the earthen dam is expected to be completed in early June, with miscellaneous activities, clean-up, and final punch list items extending into July. The new water release structure for the Moormans River is also presently under construction at the base of the Sugar Hollow Dam and will be completed in July. Staff is presently reviewing with the RWSA Board of Directors possible dates for a dedication of the new dam in September.

A date for beginning the initial fill of the new reservoir has not yet been established. Concurrence from the Virginia Department of Conservation and Recreation’s Dam Safety Unit is required, and Thalle Construction may be continuing to use a haul road at elevation near the current pool level for some of the clean-up effort in the weeks following dam completion. Our best current estimate is that the initial fill will begin by sometime in July.

I know all elected officials are aware, whether in support or opposition to this project, that the completion of this project is a major milestone for this community, culminating efforts to provide a long-term sustainable supply of water that started with ideas about a Buck Mountain Reservoir as far back as the late 1970s and endured the major drought of 2002. Although public comments at our meetings regarding water conservation have waned significantly since it was clear this new construction would proceed, we believe it remains a very important community objective that we use water wisely and sustain our new supply for as far into the future as we can. Public education on conservation will continue to be coordinated by joint efforts of the ACSA and City.

RWSA staff has begun work on revising our Drought Response and Contingency Plan, originally adopted in 2007, to develop new milestones for drought declarations that take into account the new storage. We expect this revision to be adopted later this year and be effective with the “dry season” in 2015.

4. Cost Share Agreements: An important milestone was achieved in March with approval of a Wastewater Projects Cost Allocation Agreement by the City and ACSA. The Agreement, negotiated over approximately two years, provides formulas by which RWSA will allocate costs of wastewater projects in its present and future CIPs between the ACSA and City.

5. Ivy Materials Utilization Center: The RSWA and County presently have an executed contract, as amended, extending the operation of this facility through June 30, 2015. There is no current agreement for this facility with the City. RSWA and County officials met with DEQ in February whereby DEQ is making it a legal condition that a narrative plan meeting specified criteria be developed and submitted by April 1, 2015 or DEQ will require that the existing transfer station close on July 1, 2015. A Letter of Agreement addressing these conditions is attached. The plan must clearly define what publicly provided solid waste services the Board of Supervisors wishes to continue to provide within its jurisdiction, which agency will provide these services, and a milestone schedule to complete infrastructure to provide these services. The infrastructure may be improving the existing transfer station to include enclosing the facility, a new transfer station, and/or one or more convenience centers. Our Board of Directors recognizes the June 30, 2015 deadline as firm unless there is a written narrative plan approved by at least the County Board of Supervisors before next April 1, and we are aware the County has taken the lead on developing this narrative plan and is actively discussing this matter.

cc: RWSA Board of Directors
RSWA Board of Directors



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

Molly Joseph Ward
Secretary of Natural Resources

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
www.deq.virginia.gov

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

May 27, 2014

Mr. Tom Frederick, P. E.
Executive Director
Rivanna Solid Waste Authority
695 Moores Creek Lane
Charlottesville, Virginia 22902

LETTER OF AGREEMENT

Re: Ivy Materials Utilization Center
Permit No. PBR132

Dear Mr. Frederick:

This Letter of Agreement between Rivanna Solid Waste Authority (RSWA) and the Department of Environmental Quality (DEQ), Valley Regional Office, sets forth the actions to ensure compliance with the Virginia Waste Management Act and Permit No. PBR132. By signing and dating the original letter, and returning it to this office by June 10, 2014, you agree to the terms of this Letter of Agreement. Please keep a copy of the signed letter for your records.

Background

Described below are the events leading to this Letter of Agreement:

RSWA owns and operates a solid waste transfer station, Ivy Materials Utilization Center (Facility), located at 4576 Dick Woods Road in Albemarle County, Virginia. The Facility is permitted under PBR132.

On March 25, 1998, RSWA submitted a Notice of Intent (NOI) to construct a solid waste transfer station.

The Facility was originally permitted as a temporary facility with the expectation from DEQ, RSWA and Albemarle County officials that the facility would erect buildings to house their waste management activities in about two years. It was also thought that the landfill would open an additional cell but lawsuits prevented that from occurring.

On December 30, 2013, RSWA submitted a NOI to close the Facility but recently communicated to DEQ that they would like to continue operating the transfer station until July 1, 2015.

The Facility is currently the only open-air facility of its kind in Virginia. As such, leachate is generated when precipitation contacts the solid waste during storm events. Leachate is currently collected and sent to Rivanna Water and Sewer Authority's Moore's Creek Plant for Treatment.

On February 25, 2014, a meeting was held at Rivanna Water and Sewer Authority's Moore's Creek offices to discuss the status of RWSA's Ivy Materials Utilization Center. In the meeting DEQ proposed entering into a Letter of Agreement with RSWA.

Agreed Actions

To assure compliance with 9 VAC 20-81-330 and 9 VAC 20-81-395, Rivanna Solid Waste Authority and DEQ, Valley Regional Office, agree that Rivanna Solid Waste Authority shall:

1. By April 1, 2015, either:
 - a. Submit a NOI to close the Ivy Materials Utilization Center transfer station by July 1, 2015, or
 - b. Submit a written plan with a milestone schedule describing specific solid waste facilities to be built to upgrade or replace the current transfer station based upon decisions by the Albemarle County Board of Supervisors on the types of waste management services to be provided by the public sector within its jurisdiction in addition to those provided by the private sector, which may or may not be the same as services currently provided at RSWA's Materials Utilization Center. Such specific solid waste facilities may include upgrading the current transfer station, building a new transfer station, converting the current transfer station to an unregulated convenience center, building new convenience centers, or a combination of such facilities identified herein. The written plan shall state the proposed public agency responsible for building, upgrading, and/or replacing the described solid waste facilities, and may be the Rivanna Solid Waste Authority or may be the County of Albemarle, subject to compliance with DEQ

regulations regarding application by the proposed agency for any permits required. It is understood that the term "written plan" as used herein is a narrative plan and does not require the submittal of detailed engineering drawings prepared for construction by the April 1, 2015 deadline.


2. Continue to collect leachate from the transfer station and route to an appropriate wastewater treatment facility.

DEQ may take other enforcement action in the event Rivanna Solid Waste Authority does not act in accordance with this agreement, or new information or circumstances suggest that other measures are required to ensure compliance with Virginia statutes and regulations or to protect human health and the environment. If Rivanna Solid Waste Authority determines that it will not be able to complete the above actions by the agreed date(s), Rivanna Solid Waste Authority shall immediately notify DEQ. This Letter of Agreement becomes effective only upon your signing, dating, and returning the original letter by the date specified. This Letter of Agreement terminates automatically 12 months after you sign the original letter.

This Letter of Agreement is neither a case decision nor a fact finding under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.*

Thank you for your cooperation. Please return the signed and dated original to DEQ by the date noted above. You can address any questions you have about this Letter of Agreement to Karen Hensley at (540) 574-7821 or at karen.hensley@deq.virginia.gov.

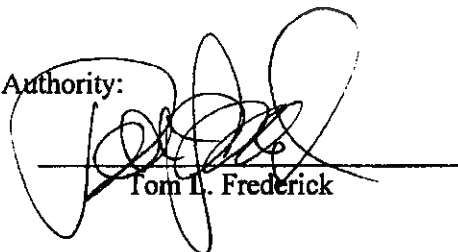
Sincerely,


Graham Simmerman
Land Protection Program Manager

cc: Case File

Seen and agreed by Rivanna Solid Waste Authority:

5/27/14
Date


Tom L. Frederick
Executive Director

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



Agenda Date:	July 7, 2014
Action Required:	Information
Presenter:	David Ellis, Assistant City Manager Miriam Dickler, Director of Communications
Staff Contacts:	David Ellis, Assistant City Manager Miriam Dickler, Director of Communications Ebony Walden, Neighborhood Planner
Title:	Community Engagement Update

Background:

At the June 16, 2014 City Council meeting, Council requested an update on civic engagement. This report includes updates on online civic engagement tools, the City's town hall meetings and the development of a "civic engagement toolbox".

Discussion:

Online Civic Engagement

Online citizen engagement tools developed specifically for local governments are fairly new and the number of providers continues to grow. While online citizen engagement is creating quite a buzz, due to the potential to increase the number of people in various policy and development discussions, it is important to recognize that online citizen engagement should be considered one of many engagement tools. The goal is not to replace existing citizen engagement tools/processes, but rather to add an additional tool that can be used in conjunction with existing tools. Additionally, it is vital that before a tool is put in place, the following questions are answered,

1. What is the desired outcome of this tool?
2. Who will monitor the feedback we receive and how will it be handled?
3. How does this fit in with existing, or planned, engagement tools?

In examining various online civic engagement tools, it is easy to be confused by the sheer volume of applications. Most existing platforms share a goal of increasing public participation by allowing individuals to share their ideas on policy and development related topics, but there are significant differences in the user interface, the type of information that can be aggregated, and how the information is presented back to the locality and residents.

After researching a number of citizen engagement tools, staff has convened a small team to develop a

request for proposal (RFP) to solicit proposals for an online civic engagement tool. If Council concurs with this approach, and if the online citizen engagement tool is determined to fit into our overall engagement strategy, staff will move forward with the goal of launching the city's online engagement tool in the early part of next year. It is estimated the initial cost for the tool will be somewhere between \$5,000 and \$20,000.

Citizen Engagement Committee

Ebony Walden, Neighborhood Planner has been leading a small group of individuals looking comprehensively at citizen engagement within the City. Thus far, an internal survey has been sent to department heads and staff to identify: staff's knowledge and level of comfort with citizen engagement tools, how often the tools are used, and any additional resources needed for success. This work largely focuses on our use of public meetings and the format those meetings use. The next step will be to survey a sample of our stakeholders to better understand from their perspective what is currently working and what areas need strengthening. Later this month staff will participate in a citizen engagement training that will provide us with the tools to identify the steps necessary towards building an effective, long-term, multi-faceted civic engagement plan for our community. This training will help inform the continued creation of the civic engagement toolbox. The toolbox will function as a living document that helps give staff and council the information to use the appropriate civic engagement strategies to collect the type of feedback needed. By using targeted, strategic methods, the City can help to streamline the engagement process and make meetings more user friendly both for staff and the public-at-large.

Our Town Hall Meetings

Between January of 2013 and February of 2014 City Council hosted nine town hall meetings in various neighborhoods in the City, with a total attendance of over 600 citizens in attendance. These neighborhood-based town hall meetings provided an opportunity for citizens to engage with City Council and staff in an informal setting. Citizens also had the opportunity to comment on various topics, and bring concerns/issues forward to Council and staff. These concerns were forwarded to various department heads for updates throughout the year and the latest summary of issues and steps taken (June 24, 2014) can be found online at www.charlottesville.org/ourtown. During town hall meetings, staff solicited feedback from citizen participants and will incorporate a satisfaction survey at the conclusion of all future town hall meetings. Additionally, staff has had internal discussions and is in the process of developing procedures to ensure updated information is available to residents in a timely manner.

Neighborhood Leadership Institute (NLI)

During the latter part of 2013 and early 2014, City staff partnered with the community and offered the Neighborhood Leadership Institute. NLI has been a part of the City's engagement strategy for a number of years, allowing members of the community to both learn more about City operations and to interact with City staff in a casual environment. The sessions were well attended and participants had the opportunity to interact and discuss pertinent issues with elected officials from the city council and the school board, non-profit leaders, and department heads. Additionally, participants had the opportunity participate in a budget workshop and meet with Leslie Beauregard and Ryan Davidson to discuss the budget process and opportunities for citizens to become engaged in the process.

To date 123 residents have completed NLI and plans are underway for a new session in 2015. Staff will incorporate feedback received from presenters and past participants into the upcoming session. In addition, staff is examining ways to reinvigorate the program and appeal to a wider audience. Changes under consideration include, moving the dates of the program, changing to a weekly

schedule of meetings, providing a wider variety of meeting spaces and finding ways to make presentations more “hands-on” and interactive.

Alignment with Council Vision Areas and Strategic Plan:

This item directly aligns with the City Council’s vision of a “Smart, Citizen Focused Government.

Community Engagement:

There has been a great deal of citizen engagement and there will continue to be as we enhance the City’s ability to engage of all of our citizens with a multitude of tools.

Budgetary Impact:

If Council approves moving forward with the on line citizen engagement RFP, initial costs will range between \$5,000 and \$20,000.

Recommendation:

Staff recommends moving forward with the RFP and continued development of the City’s citizen engagement tool box.

Alternatives:

N/A

Attachments:

N/A

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