



**CITY COUNCIL AGENDA
February 6, 2012**

6:00 p.m. – 7:00 p.m.

Closed session as provided by Section 2.2-3712 of the Virginia Code
(Second Floor Conference Room)

TYPE OF ITEM

SUBJECT

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

**AWARDS/RECOGNITIONS
ANNOUNCEMENTS**

MATTERS BY THE PUBLIC Public comment will be permitted for the first 12 speakers to 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 RESPONSES 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 of January 17 and January 20
 - b. **APPROPRIATION:** Multiforce Systems Corporation Reimbursement - \$13,000 (2nd of 2 readings)
 - c. **APPROPRIATION:** FY2012 Friendship Court Sponsorship Agreement (3rd Quarter) - \$22,130.50 (2nd of 2 readings)
 - d. **APPROPRIATION:** Charlottesville Police Department Foundation Donation - \$4,232.37 (1st of 2 readings)
 - e. **APPROPRIATION:** Charlottesville/Albemarle TRIAD Program Funds - \$406 (1st of 1 reading)
 - f. **RESOLUTION:** Whale Tail Sculpture Lease (1st of 1 reading)
 - g. **RESOLUTION:** Oakhurst Inn & Apartments SUP for Increased Density (1st of 1 reading)
 - h. **RESOLUTION:** Initiate Review of Zoning/Subdivision Waivers (1st of 1 reading)
 - i. **RESOLUTION:** Reprogramming of CDBG and CHF Funds (1st of 1 reading)
 - j. **RESOLUTION:** Project Gait-Way: The Belmont Bridge Design Competition - \$2,000 (1st of 1 reading)
 - k. **ORDINANCE:** Closing of Temporary Turnaround Area in Davis Field near Marshall Court (2nd of 2 readings)

2. REPORT

Michie Drive Traffic Options

3. REPORT

Commission on Human Rights, Diversity and Race Relations

4. REPORT

SRO Update

5. REPORT

Renewable Energy Revolving Loan Fund Proposal

6. REPORT

McIntire Park East Side Master Plan Update

OTHER BUSINESS

MATTERS BY THE PUBLIC

*ACTION NEEDED

APPROPRIATION
Multiforce Systems Corporation Reimbursement
\$ 13,000.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$13,000.00, received as reimbursement is appropriated in the following manner:

Revenue - \$13,000

Fund: 426 Project: P-00211 G/L Account: 451999

Expenditures - \$13,000

Fund: 426 Project: P-00211 G/L Account: 599999

APPROPRIATION
2012 Friendship Court Sponsorship Agreement (3rd Quarter)
\$22,130.50

WHEREAS, the City of Charlottesville has received a donation from Friendship Court to fund enhanced police coverage for the areas defined in the Sponsorship Agreement, including salary, equipment, technology and related administrative expenses associated with provisions of such enhanced coverage, for the period of January 1, 2012 to March 31, 2012.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$22,130.50, to be received as a donation from Friendship Court, is hereby appropriated in the following manner, and is conditioned upon receipt of \$22,130.50 from Friendship Court.

Revenues - \$22,130.50

Fund: 105

Internal Order: 2000005

G/L Account: 451999

Expenditures - \$22,130.50

Fund: 105

Internal Order: 2000005

G/L Account: 510060

APPROPRIATION

Charlottesville/Albemarle TRIAD Program Funds

\$406

WHEREAS, the City of Charlottesville, through TRIAD, has received a fund balance of \$406, which will be used for expenses related to the TRIAD operations;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$406, received from patrons of CATV are hereby appropriated in the following manner:

Revenue

\$406 Fund: 105 I/O: 2000109 G/L Account: 451020

Expenditures

\$406 Fund: 105 I/O: 2000109 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$406; and

BE IT FURTHER RESOLVED, that future fees and contributions to the TRIAD program will be hereby considered as a continuing appropriation and immediately available for the TRIAD program to spend appropriately.

RESOLUTION

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that this Council hereby authorizes the City Manager to enter into a Lease Agreement with Mr. Thomas Givens, for a period of thirty (30) months, for the maintenance of one (1) whale tail sculpture, to remain on display during the term of the lease at Meadowbrook Heights Road and the 250 Bypass.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this _____ day of _____, 2012, by and between **THOMAS F. GIVENS, t/a TOM GIVENS WOODWORKING**, (hereinafter “Lessor”), whose address is 1711 Essex Road, Charlottesville, VA 22901, and the **CITY OF CHARLOTTESVILLE** (hereinafter “City”), whose address is P.O. Box 911, Charlottesville, VA 22902.

WITNESSETH:

WHEREAS, Lessor is the sole owner of the three (3) Art in Place Whale Tail sculptures (hereinafter “Sculpture”), currently located at the intersection of Meadowbrook Heights Road and the 250 Bypass in Charlottesville; and

WHEREAS, the City desires to lease one (1) of the Sculptures from the Lessor for the purpose of retaining the sculpture in this location for a period of thirty (30) months; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1. Lease of Property. Lessor hereby demises to the City, and the City hereby leases from Lessor, one (1) wooden sculpture of a whale tail, currently located at Meadowbrook Heights Road and the 250 Bypass (near the intersection with the four-way stop signs).
2. Term. This lease shall commence on January 1, 2012 and shall automatically expire on July 1, 2014, unless terminated by either party as provided for in this agreement.
3. Fee. The City shall pay to Lessor one-hundred and fifty dollars a month (\$150.00), and upon expiration or termination of the lease, shall have the option to purchase the sculpture from the Lessor for one dollar (\$1.00). If purchased, the City may remove the sculpture, allow it to deteriorate, or make any other decisions regarding its disposition, at the sole discretion of the City.
4. Termination for Convenience. Both parties shall have the right to terminate this lease for convenience upon sixty (60) days written notice to the other party of such intent to terminate.
5. Termination for Demise of Sculpture. If the Sculpture collapses in part or in whole at any time, this lease is automatically terminated at the time of collapse and the Lessor incurs full responsibility for clean up and removal of the Sculpture.
6. Care and Maintenance of Sculpture. Lessor shall, at his sole expense, provide care and maintenance of the Sculpture and maintain it in good condition. The means and methods of such maintenance shall be in the best judgment of the Lessor.
7. Signs. Neither the City nor Lessor shall display or erect any lettering, sign, advertisement, sales apparatus or other projection on or around the Sculpture without prior written consent of the other party.

8. Assignments. The City shall not assign its rights or obligations under this lease, or sublease the Sculpture, without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

9. Liability Insurance. It is agreed that Lessor shall secure, and shall maintain throughout the term of this lease, insurance coverage as follows (“Required Insurance”):

a. Comprehensive General Liability coverage , per occurrence, in the following amounts, \$1,000,000 general aggregate; \$1,000,000 aggregate products/completed operations; \$1,000,000 aggregate personal injury and premises liability; \$1,000,000 each occurrence; \$100,000 fire damage (any one fire); \$10,000 medical expenses (any one person); and Comprehensive Automobile Liability (any automobile); \$1,000,000 combined single limit; and Employer’s Liability Insurance , \$100,000 each accident.

b. Each insurance policy shall be endorsed to include the Required Endorsement specified herein below in paragraph 10. Lessor may not, and shall not, perform any work on the Sculpture subject to this lease during any period of time in which the Required Insurance is not in effect. Lessor’s failure to comply with the requirements of this section shall constitute a material breach of this lease entitling the City to terminate this lease without notice and without penalty to the City.

10. Endorsements to Required Insurance Policies. Each insurance policy shall be endorsed to include the following clauses (“Required Endorsements”):

a. Should any of the insurance policies be canceled before the expiration date thereof, the issuing insurance company will endeavor to mail written notice of such cancellation to the City at least ten (10) days in advance; and

b. The City, its officers, agents, employees, representatives and volunteers are added as additional insured with respect to the artwork displayed under this lease.

11. Proof of Insurance upon Execution of Lease. Lessor shall provide the City with one or more certificates of insurance confirming the insurance required by this lease, signed by a person authorized by the insurance company to bind it to the representations contained therein. These certificates shall be provided to the City upon execution of this lease, and then again (without demand) on or before the expiration date of any policy and upon each anniversary of the commencement date of this agreement. Also, a certificated of insurance shall be provided within ten days of a request therefore by the City. Upon demand by Lessor, it shall be furnished with copies of said insurance policies, together with the Required Endorsements.

12. Indemnification. Lessor agrees to indemnify and hold harmless the City and all of its officers, agents, and employees from all liability, loss, claims, suits, damage, charge, actions or expense of any character, name and description brought for any actions on the part of the Lessor or by or in consequence of any neglect in safeguarding the Sculpture, or through the use of unacceptable materials in the construction of improvements or maintenance, or by or on account or any act or omission, neglect, misconduct or negligence of the Lessor or the Lessor’s subcontractors in the performance of their obligations under this Lease.

13. Remedies. In the event of default by Lessor, the City may, at its option, declare this lease to be terminated and canceled, and possession of the Sculpture, in its existing physical condition at the time of default, shall revert back to the Lessor.

14. Surrender of Premises.

a. Upon the expiration or other termination of this lease, or any renewals or extensions thereof, Lessor shall offer to surrender the Sculpture to the City for a cost of one dollar (\$1.00), acceptance of which is at the sole discretion of the City.

b. Abandonment of the leased Sculpture by Lessor during lease period shall constitute an event of Default and shall result in an immediate termination of this lease agreement, shall cause ownership of Sculpture to revert to the City, whom at that time, may remove and dispose of the Sculpture at its discretion.

15. Notices. Notices under this lease shall be in writing, signed by the party serving under such notice, and shall be addressed to the parties at the addresses appearing below or to such other addresses as each party may have furnished in writing to each other as place for service of notice. Any notice mailed shall be deemed to have been given as of the date said notice is received (or the date such notice was rejected). The parties' designated representatives for purposes of receiving such notices and communications pertaining to this Lease are as follows:

Lessor: Thomas F. Givens t/a
Tom Givens Woodworking
1711 Essex Road
Charlottesville, VA 22901
atgivens@comcast.net

Lessee: City of Charlottesville
Attn: Brian Daly, Director, Parks and Recreation Department
P.O. Box 911
Charlottesville, VA 22902
dalyb@charlottesville.org

16. Governing Law. This lease shall be construed under and governed by the laws of the Commonwealth of Virginia and any litigation arising under this lease shall be within the jurisdiction of the City of Charlottesville.

17. Entire Agreement. This Lease constitutes the entire agreement between the parties and there are no other agreements or understandings, either written or oral, which have not been incorporated herein.

18. Miscellaneous.

a. Headings of paragraphs are for convenience only and shall not be considered in construing the meaning of the contents of such paragraph.

b. No failure on the part of the Lessor or City to enforce any of the terms or conditions set forth in this Agreement shall be construed as or deemed to be a waiver of the right to enforce such terms and conditions. No waiver by the Lessor or the City of any default for failure to perform by the other party shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance or payment of any rentals, fees and/or charges by the Lessor or the City, and/or the performance of all or any part of this Agreement by the Lessor or the City, for or during

any period(s) following a default or failure to perform by the Lessor or the City, shall not be construed as or deemed to be a waiver by the Lessor or the City of any rights hereunder, including, without limitation, the right of either party to terminate this Agreement.

c. This Agreement may be modified by the parties during performance, but no modification shall be valid or enforceable unless in writing and signed by each of the parties hereto in the same manner and with the same formality as this Agreement.

d. In the event that any term, provision or condition of this Agreement, or the application thereof to any person or circumstances, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, and the application of any term, provision or condition contained herein to any person or circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby.

e. Neither Lessor, nor any agents, employees, assignees or subcontractors of Lessor shall be deemed employees or agents of the City by virtue of any services performed pursuant to the Agreement or the contractual relations established hereby. Lessor shall have sole responsibility for its staff, including their work, personal conduct, directions and compensation.

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

Lessor:
THOMAS F. GIVENS
t/a Tom Givens Woodworking

Thomas F. Givens

Lessee:
CITY OF CHARLOTTESVILLE

By: _____
Maurice Jones, City Manager

Approved as to Form:

Francesca Fornari
Assistant City Attorney

**RESOLUTION
AMENDING A SPECIAL USE PERMIT GRANTED TO
TENTH & MAIN LLC FOR INCREASED DENSITY ON PROPERTIES AT
100, 102 AND 104 OAKHURST CIRCLE, 1616 JEFFERSON PARK AVENUE
AND PARCEL X ON A PLAT LAST REVISED OCTOBER 5, 2009**

WHEREAS, Tenth & Main LLC (“Applicant”) has requested an amendment to the special use permit granted by Council on January 5, 2009, with respect to property identified on City Tax Map 11 as Parcels 1, 2, 3, 4, and the land designated as Parcel X on a plat dated December 29, 2008, last revised October 5, 2009, of record in the Charlottesville Circuit Court Clerk’s Office as Instrument 2009004661, consisting of approximately 1.288 acres or 56,105 square feet (hereafter the “Subject Property”), to allow increased density, reduced rear setbacks, and an exception to the parking requirements; and

WHEREAS, the Subject Property is currently zoned R-3 Residential with Historic Overlay; and

WHEREAS, the Applicant intends to combine the five (5) existing parcels into two (2) parcels, instead of one (1) parcel as originally contemplated, said combined parcels to be designed as Parcel A and Parcel B; and

WHEREAS, the Applicant was granted a special use permit on January 5, 2009 to allow increased density from 21 units per acre to 32 units per acre on the Subject Property, and the current request is to: (1) allow increased density from 32 units per acre to 50 units per acre on Parcel A; (2) reduce the rear setbacks to 5 feet on Parcel A, and 10 feet on Parcel B (with density of 9 dwelling units per acre); and (3) make an exception to the parking requirements to allow all required parking to be located on one parcel for all of the Subject Property; and

WHEREAS, following a joint public hearing before this Council and the Planning Commission, duly advertised and held on January 10, 2012, this Council finds that such increased density is allowed under City Code Section 34-420 by special use permit, and exceptions to the parking requirements are allowed under City Code Section 34-162, and the requested amendments to the existing special use permit will conform to the criteria applicable to special use permits generally under Chapter 34 of the City Code; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the special use permit granted to Tenth & Main LLC on January 5, 2009 is hereby amended to permit increased density, reduction in setbacks, and exception to the parking requirements, as described above. Approval of this special use permit is conditioned upon full compliance with all conditions previously imposed as part of the January 5, 2009 special use permit, or as modified below, as well as upon additional conditions as follows:

1. Condition #1 of the January 5, 2009 SUP remains unchanged;
2. Condition #2 of the January 5, 2009 SUP is modified as follows: Re-alignment of the JPA/Emmet intersection in a manner substantially in conformance with the final site plan approved July 12, 2011;
3. Condition #3 of the January 5, 2009 SUP remains unchanged, and the City acknowledges that it has been substantially fulfilled;
4. Condition #4 of the January 5, 2009 SUP is modified as follows: Reduction of the front yard setback to 12 feet as represented on the final site plan approved July 12, 2011;

5. Condition #5 of the January 5, 2009 SUP remains unchanged, and the City acknowledges that it has been substantially fulfilled;
6. Condition #6 of the January 5, 2009 SUP remains unchanged;
7. Reduction of the rear setbacks to 5 feet on one parcel (proposed Parcel A with 50 dwelling units per acre), and the reduction of the rear setbacks to 10 feet on the other parcel (proposed Parcel B with density of 9 dwelling units per acre); and
8. All of the required parking for proposed Parcel B (9 dwelling units per acre) shall be accommodated on the adjacent apartment site (proposed Parcel A, 50 dwelling units per acre), or otherwise in accordance with the provisions of Section 34-973 of the City Code.

**RESOLUTION
TO INITIATE STUDY BY PLANNING COMMISSION
OF VARIOUS TYPES OF WAIVER, EXCEPTION AND MODIFICATION PROVISIONS
FOUND IN CHAPTER 29 (SUBDIVISION OF LAND) AND CHAPTER 34 (ZONING)
OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED.**

WHEREAS, the City Council of the City of Charlottesville believes that changes to provisions governing waivers, exceptions and modifications to ordinances found in Chapter 29 (Subdivision of Land) and Chapter 34 (Zoning) of the Charlottesville City Code, 1990, as amended, may become necessary due to recent court decisions; and

WHEREAS, this Council finds and determines that the public necessity, convenience, general welfare, and good zoning practice require the initiation of a study of the various waiver, exception and modification provisions found in Chapter 29 and Chapter 34; now, therefore,

BE IT RESOLVED by the City Council of the City of Charlottesville that the Planning Commission is hereby directed to study the waiver, exception and modification provisions in Chapter 29 and Chapter 34 of the Charlottesville City Code, 1990 as amended, and make recommendations to City Council for possible amendments to said chapters; and

BE IT FURTHER RESOLVED that the Planning Commission will submit its findings and recommendations to the City Council no later than 100 days from the date of this Resolution.

**A RESOLUTION
REAPPROPRIATING FUNDS FOR
THE CITY OF CHARLOTTESVILLE'S 2011-2012
COMMUNITY DEVELOPMENT BLOCK GRANT and CHARLOTTESVILLE
HOUSING FUND**

WHEREAS, the City of Charlottesville previously approved the FY 11-12 CDBG and CHF budgets, and

WHEREAS, Albemarle Housing Improvement Program was to receive \$24,666 in CDBG and \$200,000 in CHF funding, and

WHEREAS, Administrative Funds was to receive \$107,606.71 CDBG,

NOW THEREFORE BE IT RESOLVED by the City Council of Charlottesville, Virginia, that the Albemarle Housing Improvement Program be funded \$104,666 in CDBG and \$120,000 in CHF funding and Administrative Funds be funded \$27,606.71 in CDBG and \$80,000 in CHF funding.

RESOLUTION
Support of Project Gait-Way: The Belmont Bridge Design Competition
\$2,000

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of up to \$2,000 is hereby paid from currently appropriated funds in the Council Priority Initiatives Account in the General Fund to support Project Gait-Way: The Belmont Bridge Design Competition:

Fund: 105

Cost Center: 10110010000

**AN ORDINANCE
AUTHORIZING THE PARTIAL VACATION OF A SUBDIVISION PLAT
ON PROPERTY OFF MARSHALL COURT (DAVIS FIELD)**

WHEREAS, a subdivision plat, dated March 7, 1969, of record in the Charlottesville Circuit Court Clerk's Office in Deed Book 308, Page 334, shows an area labeled as a "Turn-Around 100' Diameter" on a 1.375 acre parcel of land owned by R. M. Davis; and

WHEREAS, said parcel of land was conveyed to the City of Charlottesville on December 2, 2011 by deed dated November 1, 2011, of record in the Charlottesville Circuit Court Clerk's Office as Instrument No. 2011004255; and

WHEREAS, in order to secure title insurance on the land the City needs to remove any rights of public access by virtue of the Turn-Around being shown on the 1969 plat; and

WHEREAS, the City wants to vacate that portion of the 1969 subdivision plat showing the Turn-Around, pursuant to Virginia Code Sec. 15.2-2272(2), by way of adoption of an ordinance; and

WHEREAS, notice of the proposed adoption of this ordinance was advertised in accordance with Virginia Code Sec. 15.2-2204; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is authorized to sign on behalf of the City an instrument vacating in part the aforementioned subdivision plat dated March 7, 1969, as authorized by Virginia Code Sec. 15.2-2272(2).

**This deed is exempt from state and local recordation taxes pursuant
to Virginia Code Sections 58.1-811(A)(3) and 58.1-811(C)(4)**

THIS DEED OF VACATION (“Deed”) is made this _____ day of _____, 2012, by the **CITY OF CHARLOTTESVILLE, VIRGINIA** (“City”), a municipal corporation and political subdivision of the Commonwealth of Virginia, both the Grantor and Grantee herein, whose mailing address is P.O. Box 911, Charlottesville, Virginia 22902.

WITNESSETH:

Whereas, the City owns the real property identified as Parcel 50.1 on City Real Estate Tax Map 47, commonly known as the Davis Field property, located in the City of Charlottesville, Virginia (the “Property”); and

Whereas, located within the Property is an unnamed, unaccepted platted cul-de-sac right-of-way, one hundred feet (100’) in diameter (the “Turn-Around Area”), running northward from Marshall Court (formerly named Marshall Street on certain plats), and the City cannot secure clear title to the Property until the Turn-Around Area is vacated; and

Whereas, the City currently owns all the land immediately adjoining and contiguous to the subject Turn-Around Area, which is shown and labeled “Turn-Around 100’ Diameter” on a plat made by R. E. Snow, dated March 7, 1969, of record in the Charlottesville Circuit Court Clerk’s Office in Deed Book 308, page 334 (the “1969 Plat”), and subsequently shown on a plat dated August 8, 1980 in Deed Book 415, Page 653, and on a plat dated December 20, 2007 on page 3 of Instrument #2008003883, all of record in the aforesaid Clerk’s Office, and vacation of that portion of the 1969 Plat containing the Turn-Around Area will not and does not impede or alter access for any other lot owners; and

Whereas, there are no lien creditors whose debts are secured by a recorded deed of trust or mortgage on the Property or the subject Turn-Around Area; and

Whereas, the City desires to vacate the Turn-Around Area to secure clear title;

NOW, THEREFORE, in accordance with the provisions of Virginia Code Sec. 15.2-2272(1), the 1969 Plat, of record in the Charlottesville Circuit Court Clerk’s Office in Deed Book 308, page 334, is hereby VACATED in part by vacating that portion of the 1969 Plat showing the Turn-Around Area. In accordance with the provisions of Virginia Code Sec. 15.2-2274, title to said Turn-Around Area shall hereby vest in the City of Charlottesville, Virginia, free and clear of any rights of the public.

IN WITNESS WHERE, the Mayor was authorized to execute this Deed of Vacation by Ordinance adopted by the Charlottesville City Council on _____, 2012.

WITNESS the following signature and seal.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Satyendra S. Huja, Mayor

COMMONWEALTH OF VIRGINIA

City of Charlottesville, to-wit:

The foregoing Deed of Vacation was acknowledged before me this _____ day of _____, 2012, by Satyendra S. Huja, Mayor, on behalf of the City of Charlottesville.

Notary Public

Registration #: _____

My commission expires: _____