

City of Fredericksburg, Virginia

## City Council

# AGENDA

Council Chambers

715 Princess Anne Street

Fredericksburg, Virginia 22401

**March 8, 2016**

**7:30 p.m.**

**Mayor Mary Katherine Greenlaw, Presiding**

Hon. Mary Katherine  
Greenlaw, Mayor  
Hon. William C.  
Withers, Jr., Vice-  
Mayor, Ward Two  
Hon. Kerry P. Devine,  
At-Large  
Hon. Matthew J. Kelly,  
At-Large  
Hon. Bradford C. Ellis,  
Ward One  
Hon. Timothy P. Duffy,  
Ph.D., Ward Three  
Hon. Charlie L. Frye,  
Jr., Ward Four

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1. **Call To Order**

2. **Invocation**

Councilor Matthew J. Kelly

3. **Pledge Of Allegiance**

Mayor Mary Katherine Greenlaw

4. **Presentations**

5. **Public Hearing**

- A. Ordinance 16-\_\_\_, First Read, Vacating An Alley On The Former Free Lance-Star Property At 616 Amelia Street

Documents: [5A ALLEY VACATION.PDF](#)

- B. Ordinance 16-\_\_\_, First Read, Authorizing The Vacation Of A Portion Of A Public Waterline And Sanitary Sewer Easement At Amelia Square For Sedona Taphouse

Documents: [5B SEDONA ESMT VACATION.PDF](#)

- C. Ordinance 16-\_\_\_, First Read, Providing For Issuance And Sale Of A General Obligation Bond, Series 2016 Of The City Of Fredericksburg, Virginia, In An Amount Not To Exceed \$14,525,000, And The Form, Details And Payment Thereof

Documents: [5C VRA BOND ISSUANCE.PDF](#)

6. **Comments From The Public**

City Council provides this opportunity each regular meeting for comments from citizens who have signed up to speak before the start of the meeting. To be fair to everyone, please observe the five-minute time limit and yield the floor when the Clerk of Council

indicates that your time has expired. Decorum in the Council Chambers will be maintained. Comments that are not relevant to City business and disruptive are inappropriate and out of order.

## 7. Council Agenda

## 8. Consent Agenda

- A. Transmittal Of Ordinance Amending City Code Section 2-387 To Change Thresholds For Small Purchases

Documents: [8A PURCHASING CODE CHANGE.PDF](#)

- B. Ordinance 16-06, Second Read (Amended), Rezoning Approximately 0.8829 Acres Of Land Located 404 Willis Street From Light Industrial I-1 To Commercial Downtown (Conditional)

Documents: [8B ERI REZONING.PDF](#)

- C. Ordinance 16-07, Second Read, Revising The Solid Waste Chapter Of The City Code To Address City-Owned Trash Carts, Include Recycling, Revise The Penalties For Violations, Grant Certain Administrative Authority To The Director Of Public Works, Hold Lessors Responsible For Vacated Rental Properties, And Delete The Public Works Permit Requirement For Transporting Refuse

Documents: [8C SOLID WASTE CODE CHANGES.PDF](#)

- D. Resolution 16-\_\_, Authorizing The City Manager To Execute A VDOT Administered – Joint Funding Standard Project Administration Agreement With The Virginia Department Of Transportation For Rehabilitation Of The Route 1 (Jefferson Davis Highway) Bridge Over Hazel Run (Project # 0001-111-255; UPC 100444)

Documents: [8D HAZEL RUN.PDF](#)

- E. Transmittal Of Boards And Commission Minutes

- E.i. Board Of Zoning Appeals - November 16, 2015

Documents: [8E1 BZA 11-16-15.PDF](#)

- E.ii. Board Of Zoning Appeals - January 5, 2016

Documents: [8E2 BZA 01-05-16.PDF](#)

- E.iii. Recreation Commission - January 21, 2016

Documents: [8E3 RECREATION 1-21-16.PDF](#)

## 9. Minutes

- A. Work Session - February 23, 2016

Documents: [9A 2-23-16 WORK SESSION MINUTES.PDF](#)

B. Public Hearing - February 23, 2016

Documents: [9B 2-23-16 PUBLIC HEARING MINUTES.PDF](#)

C. Regular Session - February 23, 2016

Documents: [9C 2-23-16 REGULAR SESSION MINUTES.PDF](#)

**10. City Manager Agenda**

A. Resolution 16-\_\_\_, Commissioning Of A Taskforce For The Purpose Of Reviewing Public Comments And Concerns Related To Tree Plantings On The Washington Avenue Mall And Developing A Recommendation Of Changes In The Interests Of The City

Documents: [10A TREE TASKFORCE.PDF](#)

B. Resolution 16-\_\_\_, Approving The Spring And Fall 2016 Tree Planting Program

Documents: [10B TREE PLANTING PLAN.PDF](#)

C. Ordinance 16-\_\_\_, Conforming The Dangerous And Vicious Dog Ordinance To State Code, And Amending The Running At Large And Nuisance Animal Ordinance

Documents: [10C ANIMAL CONTROL.PDF](#)

D. Resolution 16-\_\_\_, Requesting The Governor To Veto Senate Bill 549

Documents: [10D SB 549.PDF](#)

E. Presentation Of The City Manager's Recommended Budget For Fiscal 2017

F. City Manager's Update

Documents: [10F CITY MANAGER UPDATE.PDF](#)

G. Calendar

Documents: [10G CALENDAR.PDF](#)

**11. Adjournment**



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Marne E. Sherman, Development Administrator  
**RE:** Request to Vacate a Public Alley, adjacent to GPIN 7779-94-7781  
(616 Amelia Street)  
**DATE:** March 8, 2016 – First Read

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**ISSUE**

William Square, L.L.C. requests the vacation of a public alley located within the 600 block of Amelia Street (even side), adjacent to 616 Amelia Street (GPIN 7779-94-7781). The 870 square foot (0.02 acres) area is located on the south side of Amelia Street, 80 feet east of Washington Avenue, and is zoned C-D, Commercial-Downtown. The purpose of the request is to provide design flexibility in the redevelopment of the block containing the Free Lance-Star building.

**RECOMMENDATION**

Approval of the attached ordinance, on first read, to vacate the public alley. The ordinance includes one condition:

1. The final subdivision plat showing the vacation shall be recorded within 12 months of the date of this ordinance, with a certified copy of this ordinance.

**PLANNING COMMISSION RECOMMENDATION**

On February 10, 2016, the Planning Commission voted unanimously to approve the attached resolution, finding the application to be in substantial accordance with the 2015 Comprehensive Plan under the Code of Virginia §15.2-2232.

**BACKGROUND**

The public alley is the remaining portion of several alleys that were originally created by John G. Hurkamp with the recordation of the "Hurkamp Plat" on July 8, 1875.

On July 10, 1990, the City Council adopted Ordinance 90-33 approving the vacation of all of the alleys except the 10 feet x 87 feet segment which is the subject of the current request. The initial vacation was approved in conjunction with the expansion of the Free Lance-Star facility to incorporate the two-story office area and distribution facility. In 1990, the remnant alley was preserved to provide access to the last residential property on the block facing Amelia Street. The house has since been relocated to the north side of Amelia Street and the alley infrastructure is now incorporated into the parking lot of the Free Lance-Star.

GPIN 7779-94-7781 was acquired by William Square, L.L.C. in December, 2015. The purpose of the current vacation request is to facilitate the comprehensive redevelopment of the property. No formal designs have been submitted to date.

*Zoning*

The underlying zoning district within the subject alley is Commercial-Downtown (C-D).

**FISCAL IMPACT**

The 870 square foot (0.02 acres) of vacated public alley will be taxed, adding to the revenue of the City. Costs associated with the sale of land will be at the discretion of City Council. Based on the acreage and assessed values per square foot of adjacent properties, the 0.02 acres is valued at \$23,500.

**CHECKLIST AND DISCUSSION – City Code §66-42**

The following table outlines the requirements for the vacation of public rights-of-way under the City Code. The City Code is modeled on the Code of Virginia §15.2-2006.

Subsection	Requirement	Notes
<b>A</b>	Ordinance adopted by City Council	See Attached Ordinance
<b>B</b>	Written Application & \$100 Fee	The cover letter, along with supporting materials, and the \$100 fee were submitted on January 13, 2016 and constitute the complete application.
<b>C</b>	Public Hearing and Notice to Adjoining Property Owners	March 8, 2016 public hearing. Notice includes a sign on Amelia Street, published notice in the <i>Free Lance-Star</i> newspaper on February 23 and March 1, and certified letters to adjoining property owners.
<b>D</b>	At the conclusion of the hearing, the Council may appoint a committee of between three and five viewers to report any inconvenience from discontinuing the street or alley.	Council's discretion, but staff recommends that in this case viewers would not be necessary.
<b>E</b>	Council may vacate after public hearing and viewer's report (if any). May be conditioned if the vacation is an accommodation of an expansion or development of a business.	First and second read of the ordinance would take place after the required public hearing has taken place. The Planning Commission provided its recommendation in the attached resolution. The conditioning of the vacation, as an accommodation of business development, applies at the discretion of Council.

Subsection	Requirement	Notes
<b>F</b>	If an abutting property owner is among the applicants applying for the vacation, that person may be required by Council to purchase the vacated right-of-way at a mutually agreeable price.	The cost of the land can be negotiated by Council. The 870 square foot (0.02 acres) of vacated right-of-way will be taxed, adding to the revenue of the City. Costs associated with the sale of land will be at the discretion of City Council. Based on the acreage and assessed values per square foot of adjacent properties, the 870 square foot (0.02 acres) is valued at \$23,500.
<b>G</b>	Appeals of Council decisions must be filed within 60 days of the final ordinance adoption in the City's Circuit Court.	Information only – no bearing on consideration of the vacation.

**COMPREHENSIVE PLAN COMPLIANCE REVIEW ANALYSIS**

The City of Fredericksburg's 2015 Comprehensive Plan addresses goals, policies, and initiatives for transportation and business development in the Downtown Planning Area.

Transportation Policies, Chapter 3, pages 59-60:

Policy 12: "Reclaim and maintain the City's alleyways, to relieve on-street parking demand and to handle utilities and services."

Due to the 1990 vacation of the connecting alleys and the 2015 consolidation of all of the parcels on the block into one 2.09 acre parcel, the remaining 10 feet x 87 feet alley section no longer provides public transportation benefits to any individual lots. Further as currently designed, the alley provides no public benefit for services or parking for the existing Free Lance-Star facility or what could be created during the comprehensive redevelopment of GPIN 7779-94-7781. Staff notes that the Unified Development Ordinance, Section 72-52.3, encourages and regulates the use of alleys with new development. Staff will review any proposal to redevelop the property in accordance with Section 72-52.3 and require the reestablishment of public or private alleys, as appropriate.

Business Opportunities Goals, Chapter 6, page 119:

Goal 1: Downtown as a Center for Commerce, Culture, and Community  
 "Ensure that downtown Fredericksburg continues to serve as a center of commerce, art, culture, recreation, historic amenities, and government, in order to provide economic stability and a sense of community. Actively pursue the preservation and adaptive reuse of downtown buildings and ensure that infill projects are designed with sensitivity to the City's historic character."

Goal 2: A Well-Balanced Mix of Uses Downtown

"Achieve a sustainable mix of commercial and residential development in downtown Fredericksburg that fits the historic character of the urban core and helps people to live, shop, and work in the city center."

The owner of the property is currently developing designs for the re-use and redevelopment of the property. The application notes that a more efficient design can be achieved without the obstruction of the existing alley. Redevelopment of the site will support the revitalization of the William Street corridor and downtown Fredericksburg.

Attachments:

Draft Ordinance

Planning Commission Resolution 16-02, February 10, 2016 Meeting

Cover letter, dated January 12, 2016

Survey Exhibit, prepared by Sullivan, Donahoe, and Ingalls, dated November 24, 2015

Aerial Photo from FredGIS

Alley History Exhibit

Public Works Memo, dated February 2, 2016

Alley Vacation Valuation

cc: Doug Fawcett, Director of Public Works



March 8, 2016  
Regular Meeting  
Ordinance No. 16-\_\_

**MOTION:**

**SECOND:**

**RE: VACATING AN ALLEY ON THE FORMER FREE LANCE-STAR PROPERTY AT 616 AMELIA STREET**

**ACTION: APPROVED; Ayes: 0; Nays: 0**

**FIRST READ: \_\_\_\_\_ SECOND READ: \_\_\_\_\_**

**IT IS HEREBY ORDAINED** by the Fredericksburg City Council:

SEC. I. Background and Introduction.

The City Council has received an application from William Square, LLC to vacate a public alley 87 feet long and 10 feet wide extending from Amelia Street into the former Free Lance-Star property at 616 Amelia Street (GPIN 7779-94-7781). The City Council had vacated other alleys on this site by adoption of Ordinance 90-33 on July 10, 1990. However, the subject alley was retained at that time, due to the presence of a single family residential use at the end of the alley. That dwelling was subsequently relocated off the site, and the alley no longer serves a public purpose. The applicant proposes to redevelop the site under plans to be developed. The purpose of the vacation application is to remove the encroachment of the alley on the redevelopment site. The area to be vacated is shown on a plat entitled "Plat of Consolidation", by Sullivan, Donahoe, and Ingalls, dated November 24, 2015.

The Planning Commission determined that the vacation of this right of way was substantially in accord with the Comprehensive Plan (2015) at its meeting on February 10, 2016. After notice as required by law, the City Council held a public hearing on the application on March 8, 2016.

SEC. II. Vacation of Right of Way

The City Council hereby vacates an alley on the former Free Lance-Star property at 616 Amelia Street (GPIN 7779-94-7781). This vacation is conditioned as follows:

The final subdivision plat showing the vacation shall be recorded within 12 months of the date of this ordinance, with a certified copy of this ordinance.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

\_\_\_\_\_  
Kathleen Dooley, City Attorney

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***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.*

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***Tonya B. Lacey, CMC***  
***Clerk of Council***



**MOTION: GRATZ**  
**SECOND: BEAVERS**

**February 10, 2016**  
**Planning Commission**  
**Resolution No. 16-02**

**RE: APPROVAL OF THE PROPOSED VACATION OF AN ALLEY ON THE FORMER FREE LANCE-STAR PROPERTY AT 616 AMELIA STREET AS SUBSTANTIALLY IN ACCORD WITH THE 2015 COMPREHENSIVE PLAN**

**ACTION: APPROVED; Ayes: 6; Nays: 0**

The City Council has received an application from William Square, LLC to vacate a public alley 87 feet long and 10 feet wide extending from Amelia Street into the former Free Lance-Star property at 616 Amelia Street (GPIN 7779-94-7781). The City Council had vacated other alleys on this site by adoption of Ordinance 90-33 on July 10, 1990. However, the subject alley was retained at that time, due to the presence of a single family residential use adjacent to the alley. That dwelling was subsequently relocated off the site, and the alley no longer serves a public purpose. The applicant proposes to redevelop the site under plans to be developed. The purpose of the vacation application is to remove the encroachment of the alley on the redevelopment site. The area to be vacated is shown on a plat entitled "Plat of Consolidation, Lots 1, 2, 3 & Part of 4 of the Thornton Town Subdivision and Lots 1-13, A-1 of the John G. Hurkamp Division and the Alleys Quit Claimed in D.B. 239 PG. 689" by Sullivan, Donahoe, and Ingalls, dated November 24, 2015.

Under Code of Virginia §15.2-2232(C) and City Code §72-22.2, an application for the vacation of a public street or alley right of way shall be submitted to the Planning Commission for review for substantial conformance with the Comprehensive Plan.

The proposed vacation of the public alley, to remove the encroachment, is consistent with the transportation and business chapters of the 2015 Comprehensive Plan, as stated more fully in the staff report.

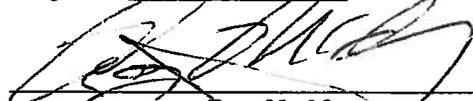
The Fredericksburg Planning Commission therefore resolves the proposed vacation of the public alley is substantially in accord with the 2015 Comprehensive Plan.

**Votes:**  
**Ayes: McAfee, Beavers, Gratz, Friesner, O'Toole, Dynes**  
**Nays:**  
**Absent from Vote: Pates**  
**Absent from Meeting: Pates**

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**Chairman's Certificate**

*I, the undersigned, certify that I am Chairman of the Planning Commission of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-02 duly adopted at a meeting of the Planning Commission meeting held February 27, 2016 at which a quorum was present and voted.*

  
**Roy McAfee**  
**Chairman of the Planning Commission**

# RUDY COYNER

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## ATTORNEYS AT LAW

OLIVER RUDY LAW BUILDING  
9910 WAGNERS WAY  
P.O. BOX 58  
CHESTERFIELD, VA 23832

**CARRIE E. COYNER**  
**KERRY B. HUTCHERSON**  
OLIVER RUDY (1937-2007)

Email: [kerry@rudycoyner.com](mailto:kerry@rudycoyner.com)  
Telephone (804) 748-3600  
Facsimile (804) 748-4671

January 12, 2016

Beverly R. Cameron  
City Manager; City of Fredericksburg, VA  
715 Princess Anne St.  
Room 203  
Fredericksburg, VA 22401

Dear Mr. Cameron,

I'm writing on behalf of my client, William Square, L.L.C., regarding a ten-foot by eight-seven-foot alley (the "Alley") that lies adjacent to tax map parcel (TMP #7779-94-7781) in the City of Fredericksburg (the "City") that my client recently purchased and consolidated (see attached "Plat of Consolidation"). My client wishes to further consolidate by including the Alley in a single parcel for future redevelopment of the city block bounded by Washington Avenue and William, Douglas, and Amelia Streets (the "Property"). My client respectfully requests that the City take whatever steps are necessary to abandon and quitclaim to William Square, L.L.C. its title or interest, if any, in the Alley. Please allow me to provide background information in support of this request.

The Alley is the remaining portion of several alleys that were created by recordation of a plat in Deed Book X, Page 232 (the "Hurkamp Plat") when John G. Hurkamp, my client's predecessor in title, acquired several parcels of land located in the City of Fredericksburg, including the land that is today identified as TMP #7779-94-7781. The City abandoned and quitclaimed any interest it had in several of the alleys created by the Hurkamp Plat by adoption of City Ordinance No. 90-33 and by execution of a Quitclaim Deed, dated November 2, 1990 and recorded in the Fredericksburg Circuit Court Clerk's Office in VOL 239, Page 689 (the

“1990 Quitclaim Deed”). The Alley, however, was not included among those alleys that were abandoned and quitclaimed by Ordinance No. 90-33 and the 1990 Quitclaim Deed.

Due to the abandonment of the other alleys in 1990, the Alley can no longer function as a thoroughfare because it extends only eighty-seven feet into the Property and terminates within the William Square, L.L.C. parcel. Vacating the Alley would allow my client to redevelop Property comprehensively and avoid the need to design future site improvements around the Alley, which in turn would support revitalization of the William Street corridor and downtown Fredericksburg (see City of Fredericksburg Comprehensive Plan, pages 219-223).

For the foregoing reasons, William Square, L.L.C. requests that the City abandon and quitclaim any interest it has in the Alley to William Square, L.L.C. I understand that Va. Code § 15.2-2006 provides a process that the City must follow in order to abandon a public right-of-way, and my client’s engineer, Mr. Darrell Caldwell will follow up with your office and other appropriate City staff to work through this process. To assist, I have prepared the attached draft Quitclaim Deed for the City Attorney to review and for you to execute whenever the City Council has authorized the abandonment and quitclaim of the Alley. I have also attached the Plat of Consolidation, the Hurkamp Plat, and the 1990 Quitclaim Deed for your reference. Thank you for your assistance in this matter, and please contact me should you have any questions.

Sincerely,



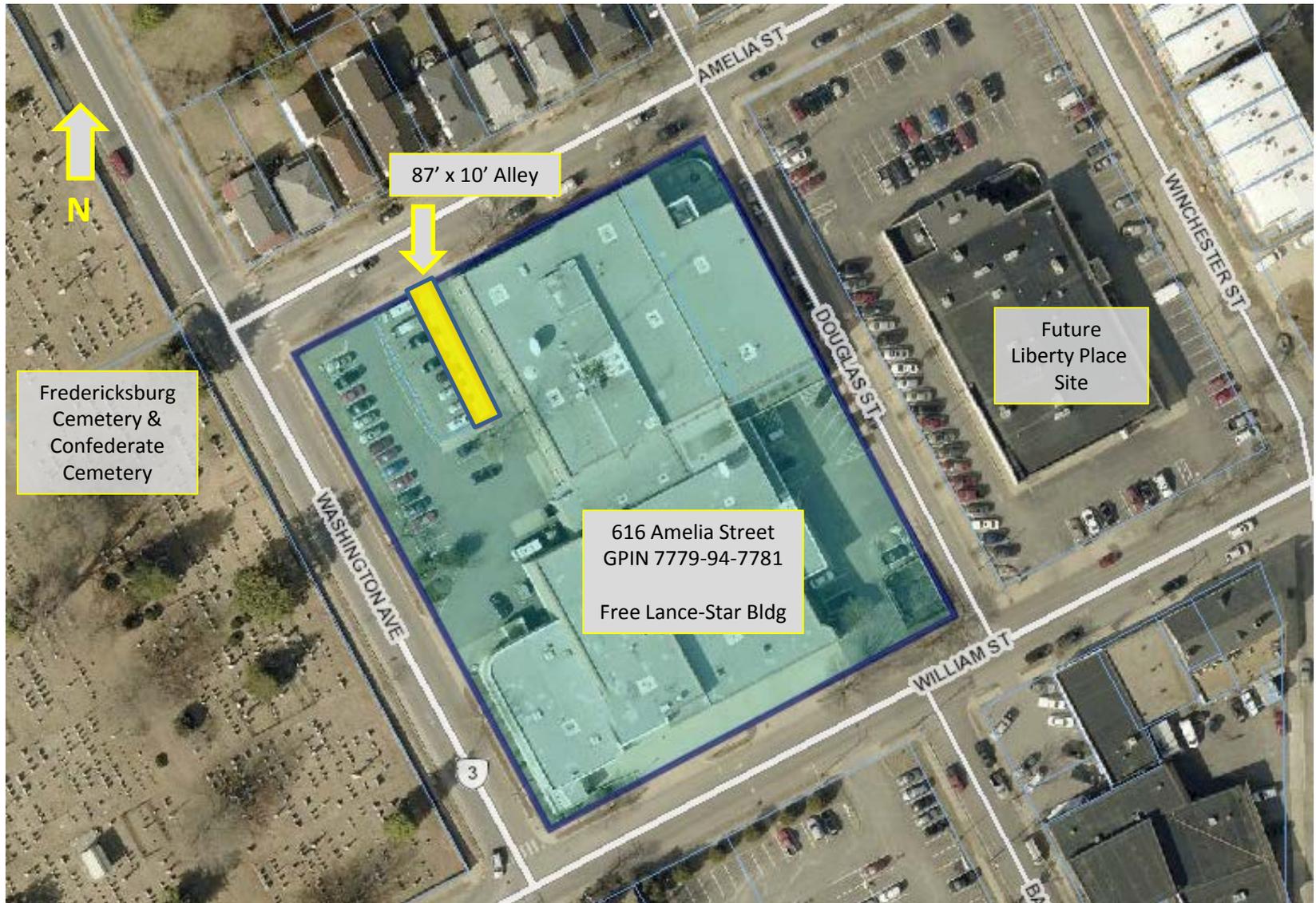
Kerry Brian Hutcherson, Esq.

Enclosures: Plat of Consolidation  
Hurkamp Plat  
Draft Quitclaim Deed  
1990 Quitclaim Deed

CC: William Square, L.L.C. (via e-mail)



# 616 Amelia Street / Alley Vacation



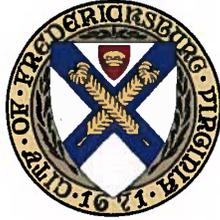
Fredericksburg  
Cemetery &  
Confederate  
Cemetery

87' x 10' Alley

Future  
Liberty Place  
Site

616 Amelia Street  
GPIN 7779-94-7781  
Free Lance-Star Bldg





## MEMORANDUM

TO: Marne E. Sherman  
Development Administrator and Code Enforcement Officer  
FROM: Doug Fawcett, Director of Public Works *Doug Fawcett*  
DATE: February 2, 2016  
SUBJECT: Proposed Vacation of Alley – 616 Amelia Street

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Public Works staff has reviewed the proposed vacation of a 10' x 87' public alley at 616 Amelia Street. We have concluded that there is no likely future public use for this alley and thus do not object to the vacation.

Alley Vacation - Valuation

March 8, 2016 Council Mtg

<b>Adjacent GPINs zoned C-D</b>	<b>Assessed Value of Land</b>	<b>Area (Square Feet)</b>	<b>Value per Square Foot</b>
7789-04-2841 (STH3 Holding Co LLC)	\$523,300	10,454.4	\$50.06
7789-04-1897 (Amelia Square Lot 8)	\$170,100	2,178.0	\$78.10
		Average per Square Foot	\$64.08
	0.0007 acres of Easement	<b>Area (Square Feet)</b> <b>29</b>	Total Value (Area x Value per Sqft) <b>\$1,858.24</b>



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Marne E. Sherman, Development Administrator  
**RE:** Request to Vacate a Portion of a Public Water and Sanitary Sewer Easement on GPIN 7789-04-2841 (591 William Street / Sedona Taphouse)  
**DATE:** March 8, 2016 – First Read

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**ISSUE**

STH3 Holding Co. LLC requests the vacation of a portion of the Variable Width Public Waterline and Sanitary Sewer Easement recorded in LR 120002057, located on GPIN 7789-04-2841 (591 William Street / Sedona Taphouse). The purpose of the request is to alleviate a building encroachment within the easement.

**RECOMMENDATION**

Approval of the attached ordinance, on first read, to vacate the requested portion of the public easement. The ordinance includes one condition:

1. The applicant shall prepare and record a deed of vacation and the exhibit plat within 90 days of the adoption of this ordinance.

**BACKGROUND**

On August 20, 2012, SH Hardware, LLC recorded the final subdivision plat and associated deed of dedication for Amelia Square Phase 1 as Land Record 120002057. The plat and deed created Lots 1-4, Parcel A, and various easements. One of the easements conveyed to public use is the variable width public waterline and sanitary sewer easement which now lies partially on GPIN 7789-04-2841 (591 William Street / Sedona Taphouse) and is the subject of the vacation request.

In 2012, the commercial portion of Amelia Square, located along William Street, was envisioned to be one parcel containing one 10,000 square foot multi-tenant building. To accommodate the anticipated water service needs of multiple tenants, the variable width waterline and sanitary sewer easement was widened adjacent to Winchester Street to permit the construction of a water meter bank.

In 2015, the commercial parcel was subdivided into two smaller parcels to accommodate development of a single use building, Sedona Taphouse, on GPIN 7789-04-2841 (Parcel C-1) and a future commercial use on the remainder parcel. Sedona Taphouse was subsequently built and now encroaches over a portion of the easement as shown on “Exhibit Plat Showing Proposed

Vacation of Portion of an Existing Var. Width Public Waterline & San Sew Esmt on Parcel C-1 in Amelia Square Phase 4.”

STH3 Holding Co. LLC purchased the property on May 11, 2015, and is requesting the vacation of 29 square feet of the variable width public waterline and sanitary sewer easement to relieve the encroachment of the building containing the trash and recycling facilities along Winchester Street.

Public Works evaluated the request and concluded that there is no anticipated public use of the 29 square foot easement area. No water meter bank will be constructed as 591 William Street is a single use building and the future commercial development to the north will tap the public waterline in the alley to the rear of the site.

### *Zoning*

The underlying zoning district within the subject alley is Commercial-Downtown (C-D).

### **CHECKLIST AND DISCUSSION – City Code §72-25.4**

The following table outlines the requirements for the vacation of a plat after lots have been sold under the City Code. The City Code is modeled on the Code of Virginia §15.2-2272.

Subsection	Requirement	Notes
<b>A</b>	Ordinance adopted by City Council	See Attached Ordinance
<b>B</b>	Written Application & \$100 Fee	The cover letter, along with supporting materials, and the \$100 fee were submitted on December 24, 2015 and constitutes the complete application.
<b>C</b>	Public Hearing and Notice to Adjacent Property Owners	March 8, 2016 public hearing. Notice includes a sign on Winchester Street, published notice in the <i>Free Lance-Star</i> newspaper on February 23 and March 1, and certified letters to adjoining property owners.
<b>D</b>	At the conclusion of the hearing, Council may vacate the plat (or portion thereof).	First and second read of the ordinance would take place after the required public hearing has taken place.
<b>E</b>	An appeal from the adoption of the ordinance may be filed within thirty days of City Council's decision with the with the City's Circuit Court.	Information only – no bearing on consideration of the vacation.

### Attachments:

Draft Ordinance

Cover letter, dated December 24, 2015

Exhibit Plat, prepared by Fairbanks & Franklin, dated December 30, 2015

Public Works Memo, dated February 26, 2016

cc: Doug Fawcett, Director of Public Works



March 8, 2016  
Regular Meeting  
Ordinance No. 16-\_\_

**MOTION:**

**SECOND:**

**RE: AUTHORIZING THE VACATION OF A PORTION OF A PUBLIC WATERLINE AND SANITARY SEWER EASEMENT AT AMELIA SQUARE FOR SEDONA TAPHOUSE**

**ACTION: APPROVED; Ayes: 0; Nays: 0**

**FIRST READ:** \_\_\_\_\_ **SECOND READ:** \_\_\_\_\_

**IT IS HEREBY ORDAINED** by the Fredericksburg City Council:

**SEC. I. Background.**

The City Council received an application from STH3 Holding Co., LLC, which does business as “Sedona Taphouse,” for the vacation of a portion of an existing, variable width public waterline and sanitary sewer easement that had been dedicated by a Deed of Subdivision, Easement and Subordination, dated August 17, 2012, recorded in the land records of the Clerk of the Fredericksburg Circuit Court as Instrument #120002057, and recordation of the accompanying subdivision plat titled “FINAL SUBDIVISION PLAT AMELIA SQUARE PHASE 1 CITY OF FREDERICKSBURG, VIRGINIA) in Plat Book17 page 67.

The easement area to be vacated is shown on an exhibit plat by William E. Farnam, L.S., dated December 30, 2015, and it consists of about 29 square feet. The purpose of the vacation request is to resolve the encroachment of the landowner’s trash enclosure on the easement area.

The City Council held a public hearing on the application under City Code § 72-25.4 and Code of Virginia § 15.2-2272 on March 8, 2016. No public utilities are located within the area proposed to be vacated, or planned to be located there in the foreseeable future. The remaining easement area is sufficient for public purposes. It is in the public interest to resolve the encroachment.

**SEC. II. Vacation of easement.**

City Council hereby vacates all of the City’s right, title and interest in and to the portion of the existing variable width public waterline and sanitary sewer easement on GPIN 7789-04-2841, consisting of approximately 29 square feet, described more fully on a plat entitled “EXHIBIT PLAT SHOWING PROPOSED VACATION OF A PORTION OF AN EXISTING VAR. WIDTH PUBLIC WATERLINE & SAN SEW ESMT,” by William E. Farnam, L.S. dated December 30, 2015, which is attached to this Ordinance as Exhibit A and incorporated herein.

**SEC. III. Conditions.**

The applicant shall prepare and record a deed of vacation and the exhibit plat within 90 days of the adoption of this ordinance.

**SEC. IV. Authorization to Execute Documents.**

The City Manager is hereby authorized and directed to execute all necessary documents implementing the terms of this ordinance, subject to the review and approval as to form by the City Attorney.

**SEC. V. Effective Date.**

This ordinance is effective immediately.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

\_\_\_\_\_  
Kathleen Dooley, City Attorney

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***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16-\_\_ duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.*

\_\_\_\_\_  
***Tonya B. Lacey, CMC***  
***Clerk of Council***



LECLAIRRYAN

December 24, 2015

Kathleen Dooley, Esq.  
City Attorney  
P.O. Box 7447  
Fredericksburg, VA 22404

Re: 591 William Street, Fredericksburg, VA 22401  
Tax Map Parcel # 7789-04-2888

Dear Ms. Dooley:

I represent STH3 Holding Co., LLC ("STH3"), which acquired the above referenced parcel in the City of Fredericksburg from SH Hardware, LLC on May 7, 2015. STH3 intends to construct a building on the site for the operation of an upscale restaurant.

On August 17, 2012, by a Deed of Subdivision and Subordination (a copy of which is enclosed), the previous owner of the parcel conveyed certain easements to the City of Fredericksburg; specifically, a variable width public waterline/sanitary sewer easement and a variable width storm water management access & maintenance easement. STH3's current construction plans for the site slightly overlap the variable width public waterline/sanitary sewer easement portion of the easement granted under the Deed of Subdivision and Subordination (see also enclosed the "as built" survey prepared by Fairbanks & Franklin). Accordingly, STH3 is hopeful that the City will partially vacate its easement to allow STH3 to complete the improvements as planned.

I would very much appreciate it if you or the appropriate person in your office would contact me to discuss STH3's project in this regard. Thank you very much for your time and attention to this matter.

Very truly yours,

David Shane Smith

DSS/nrs  
Enclosures

PHASE 2  
PB 17 PG 84

LOT 8  
N/F JARRELL, TEE  
LR 150001595  
GPIN 7789-04-1897

PHASE 4 ~ LR 150000616

PARCEL 'B'  
GPIN 7789-04-2888  
N62°43'08"E 96.52'

DHS

CONC CURB

ASPHALT

EX VAR WIDTH PUB WATERLINE  
& SAN SEW ESMT  
LR 120002057~PB 17 PG 67

CONCRETE

CONCRETE D/W APRON

HATCHED AREA INDICATES PORTION  
OF EX VAR WIDTH PUB WATERLINE  
& SAN SEW ESMT  
LR 120002057~PB 17 PG 67  
TO BE VACATED (29 SF±)

PARCEL C-1

10,572 SF

GPIN 7789-04-2841  
STH3 HOLDING CO., LLC  
LR 150001006

1 STORY STONE &  
STUCCO BUILDING  
#591 POSTED

WINCHESTER STREET  
50' WIDE R/W

CONC CURB

BRICK PAVER SIDEWALK

ELEC  
TRANS ON  
CONC PAD

CONCRETE  
PATIO

109:50

N27°14'29"W

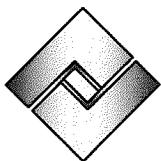
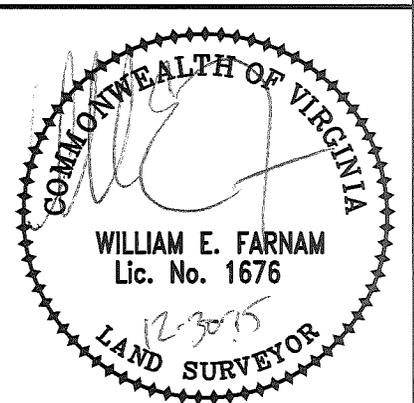


SCALE IN FEET

NOTES:

1. NO TITLE REPORT FURNISHED.
2. MERIDIAN: VCS 1983 NORTH ZONE (NAD 83).
3. BOUNDARY DATA FOR THE SUBJECT PARCEL IS THE RESULT OF A CURRENT FIELD SURVEY PERFORMED BY FAIRBANKS & FRANKLIN.

EXHIBIT PLAT SHOWING PROPOSED VACATION OF A  
PORTION OF AN EXISTING VAR. WIDTH PUBLIC  
WATERLINE & SAN SEW ESMT  
(LR 120002057~PB 17 PG 67) ON PARCEL C-1 IN  
**AMELIA SQUARE** PHASE 4  
LR 150000923  
CITY OF FREDERICKSBURG, VIRGINIA



Fairbanks &  
Franklin

Civil Engineering  
Land Planning

1005 Mahone Street  
Fredericksburg, VA 22401  
(540) 899-3700

DRAWN : WEF  
CHECKED : WEF

DATE: DECEMBER 30, 2015

DOCUMENT NO.  
366-1000

SHEET  
1 OF 1

366-1000 AMELIA SQ PCL C-1 (SEDONA) WATERLINE ESMT EXHIBIT 123015.DWG



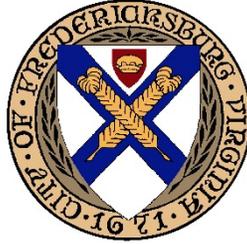
## MEMORANDUM

TO: Marne Sherman, Development Administrator and Code Enforcement Officer  
FROM: Doug Fawcett, Director of Public Works *D. Fawcett*  
DATE: February 26, 2016  
SUBJECT: Sedona Taphouse – Proposed Vacation of a Portion of a Water and Sewer Easement

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Public Works staff has reviewed the proposed vacation of a 29 square foot section of water and sewer easement on the Sedona Taphouse property, as shown on a plat entitled “336-1000 AMELIA SQ PCL C-1 (SEDONA) WATERLINE ESMT EXHIBIT 123015” (copy attached.)

Staff has concluded that, given the manner in the which the water and sewer needs of this property have been addressed without the use of this portion of the easement and that there is thus no anticipated future use of this area, we have no objection to the vacation of this portion of the easement.



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Mark Whitley, Assistant City Manager  
**RE:** Ordinance Issuing \$14,525,000 in General Obligation Bonds to Finance the Renovation of the Original Walker-Grant School and the Purchase of a Public Safety Radio System  
**DATE:** March 1, 2016

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**ISSUE**

Shall City Council approve an ordinance issuing \$14,525,000 in General Obligation bonds through the Virginia Resources Authority spring bond pool for the renovation of the Original Walker-Grant School and the purchase of a new public safety radio system?

**RECOMMENDATION**

Staff recommends holding the public hearing on the issuance of bonds as advertised, and receiving and considering any public testimony. Staff further recommends that after the hearing, Council consider and approve on first reading the attached ordinance issuing the bonds. The ordinance references a financing agreement, which is also attached to this memorandum.

**BACKGROUND**

The Fredericksburg City Public Schools is currently in the process of renovating the Original Walker-Grant School. The City is also working with Stafford County on the purchase of a new public safety radio system. The City has been working with the Virginia Resources Authority to finance these improvements.

The City has applied to the Virginia Resources Authority for participation in their spring bond pool. The VRA is requesting that all local ordinances be approved by April 1<sup>st</sup> for spring bond pool participants. The VRA will be going to the bond market in mid-May, and anticipates closing at the end of May.

The City's bond counsel prepared the attached ordinance for City Council review on first reading. If Council approves the attached resolution, then the staff will bring back the ordinance on second reading on March 22, 2016.

*Policy Debt Margin Analysis*

The City's policy is that net debt will not exceed 4.8% of the total assessed value of real estate in the City. This is more restrictive than the legal debt limit of 10% of taxable assessed value in the

Virginia Constitution. As of the close of FY 2015, the City's total net debt applicable to the debt limit was \$105,466,742; and the debt margin was calculated as \$112,662,723. The addition of \$14,525,000 of debt reduces the debt margin to approximately \$98 million.

The City's policy debt margin will be recalculated as a result of the general property re-assessment, and every year there are changes to the tax base as a result of development or other changes to assessments. The City also makes annual principal payments on its outstanding debt every year, thus creating additional debt margin.

*Ordinance and Financing Agreement Description*

The City's request to issue debt is part of a larger VRA bond issue. The Financing Agreement discusses the City's obligation as the local bond – which is our obligation to the VRA. The VRA will pool our issue with other issuers for the VRA bonds, and will use our debt service payments, and the payments of the other participants, to pay the bondholders for the pool.

The City is responsible for paying the VRA in a timely fashion, and for maintaining compliance with federal regulations regarding issuance of debt for public purposes. For example, the City must file our annual audit with a federal clearinghouse, and must ensure that the Original Walker-Grant School stays in public use.

Should the City wish to pre-pay (through, say, a refinancing) our portion of the VRA bonds, the financing agreement requires that the City set up an escrow to cover cost of VRA's obligations until the call date plus VRA's fees for the life of the issue (discounted back to the time of pre-payment). The VRA also retains the option of refinancing the entire pool, should conditions warrant, in which case the City would benefit.

**FISCAL IMPACT**

The application structures the deal in two parts. The radio system is to be financed over ten years. The school portion of the debt will be financed over twenty years. In addition, the City staff has requested that VRA defer the FY 2017 principal payment on the school portion of the debt and capitalize the first two semi-annual interest payments. This will allow the City to reduce the FY 2017 debt service payment. The deferral of the debt service on the school portion also more closely matches the benefit of the project to the debt service schedule, as the building renovation will not be completed until FY 2018.

The City's financial advisor has created a draft debt service table based on the current interest rate environment. It is important to note that this is a draft table for planning purposes only, and does not represent the final debt service table. The final debt service table will not be available until the VRA goes to the bond market later this spring.

Proposed 2016 VRA – General Obligation  
 Draft – Debt Service Schedule – For Planning Purposes Only

Fiscal Year	Public Safety Radios	School – Adjusted for Capitalized Interest in FY 2017	Net Debt Service Payments
FY 2017	218,362.50	-	218,362.50
FY 2018	220,475.00	861,712.50	1,082,187.50
FY 2019	219,931.25	864,250.00	1,084,181.25
FY 2020	218,431.25	864,493.75	1,082,925.00
FY 2021	221,618.75	864,118.75	1,085,737.50
FY 2022	219,500.00	863,125.00	1,082,625.00
FY 2023	221,143.75	859,462.50	1,080,606.00
FY 2024	221,400.00	862,793.75	1,084,193.75
FY 2025	221,143.75	859,975.00	1,081,118.75
FY 2026	220,375.00	861,000.00	1,081,375.00
FY 2027	-	860,743.75	860,743.75
FY 2028	-	859,206.25	859,206.25
FY 2029	-	856,387.50	856,387.50
FY 2030	-	857,156.25	857,156.25
FY 2031	-	856,387.50	856,387.50
FY 2032	-	854,081.25	854,081.25
FY 2033	-	855,106.25	855,106.25
FY 2034	-	854,337.50	854,337.50
FY 2035	-	851,775.00	851,775.00
FY 2036	-	852,287.50	852,287.50
FY 2037	-	850,750.00	850,750.00
<b>Total</b>	<b>2,202,381.25</b>	<b>17,169,150.00</b>	<b>19,371,531.25</b>

Proposed Debt Service Schedule – General Fund  
 Draft – Current Schedule + 2016 VRA Debt

Fiscal Year	Current General Fund Debt Service	Proposed 2016 VRA – For Planning Purposes Only	Total General Fund Debt Service <sup>1</sup>
FY 2017	7,256,190	218,362	7,474,552
FY 2018	7,252,017	1,082,187	8,334,204
FY 2019	6,919,695	1,084,181	8,003,876
FY 2020	6,906,647	1,082,925	7,989,572
FY 2021	6,430,914	1,085,737	7,516,651
FY 2022	6,425,229	1,082,625	7,507,854
FY 2023	6,248,193	1,080,606	7,328,799
FY 2024	6,257,058	1,084,193	7,341,251
FY 2025	6,247,734	1,081,118	7,328,852
FY 2026	6,253,885	1,081,375	7,335,260
FY 2027	5,799,354	860,743	6,660,097
FY 2028	5,798,410	859,206	6,657,616
FY 2029	5,607,962	856,387	6,464,349
FY 2030	5,611,836	857,156	6,468,992
FY 2031	2,242,852	856,387	3,099,239
FY 2032	2,244,576	854,081	3,098,657
FY 2033	2,243,031	855,106	3,098,137
FY 2034	2,243,008	854,337	3,097,345
FY 2035	2,241,238	851,775	3,093,013
FY 2036	2,138,925	852,287	2,991,212
FY 2037	2,136,538	850,750	2,987,288
FY 2038	2,139,638	-	2,139,638

The FY 2016 original adopted General Fund totals \$88,560,255, and the debt service transfer is \$7,303,040. Debt service as a % of the General Fund is 8.25%. Should the City Council adopt the attached ordinance, the debt service payments will peak in FY 2018, after which the 1998 Bonds (which were refunded in 2009) will be retired, providing some savings. The FY 2018 debt service transfer remains below 10% of the current FY 2016 General Fund.

However, the FY 2018 budget will need to include an increase in the debt service of just over \$1 million. An increase of that level will be difficult to absorb in the budget without increasing revenue. For planning purposes and to give a sense of scale, the FY 2018 increase in debt service would require the equivalent of an increase in the real estate tax rate of three cents per \$100 in valuation. Please bear in mind that the current re-assessment may alter the “per-penny” revenue calculation as we discuss future budgets.

<sup>1</sup> These totals do not include the credits the City received for two advance refundings of the 2004 VPSA School Bonds, which reduce the transfer to debt service in the General Fund by \$153,884 through FY 2030.

This analysis does not take into account any future debt service requirements, which will be necessary to complete the major projects in the capital improvements plan that will be considered by City Council in the upcoming budget review process.

Attachments:           Ordinance  
                              Local Bond Sale and Financing Agreement

cc:     Clarence Robinson, Director of Fiscal Affairs  
       David Melton, Superintendent, FCPS  
       David Baker, Director of Finance, FCPS  
       Kathleen Dooley, City Attorney

**ORDINANCE NO. 16-\_\_\_\_**

**ORDINANCE PROVIDING FOR ISSUANCE AND SALE OF A GENERAL OBLIGATION BOND, SERIES 2016 OF THE CITY OF FREDERICKSBURG, VIRGINIA, IN AN AMOUNT NOT TO EXCEED \$14,525,000, AND THE FORM, DETAILS AND PAYMENT THEREOF**

**WHEREAS**, in accordance with Resolution No. 16-14, the City Manager, on behalf of the City of Fredericksburg, Virginia (the “City”), applied to the Virginia Resources Authority (“VRA”) to provide financing for the renovation of the original Walker-Grant school property and for new and upgraded public safety radio equipment for the City’s Police, Fire and EMS Departments (collectively, the “Project”) through the purchase by VRA of the City’s general obligation bond (the “Bond”);

**WHEREAS**, VRA will provide funds to purchase the City’s Bond from the proceeds of its Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program) (the “VRA Bonds”), to be issued in accordance with the terms of a Local Bond Sale and Financing Agreement, between VRA and the City to be dated on or about April 1, 2016 (the “Financing Agreement”), a draft of which has been presented to this meeting;

**WHEREAS**, the Financing Agreement shall indicate that the City requested the sum of [\$14,575,000] (or such other amount as may be requested in writing by the City and approved by VRA prior to the sale of the VRA Bonds) (the “Proceeds Requested”);

**WHEREAS**, VRA's objective is to pay the City a purchase price for the Bond which, in VRA's judgment, reflects its market value (the “VRA Purchase Price Objective”) taking into consideration the Proceeds Requested and such factors as the purchase price received by VRA for the VRA Bonds, the issuance costs of the VRA Bonds (consisting of the underwriters' discount and other costs incurred by VRA, collectively the “VRA Costs”), and other market conditions relating to the sale of the VRA Bonds;

**WHEREAS**, VRA has advised the City that the sale of the VRA Bonds is tentatively scheduled for May 11, 2016, but, subject to market conditions, may occur prior to or after such date, and, in the event the Bond is not purchased by VRA on the scheduled sale date, the Bond may be sold to VRA under substantially the same terms and conditions on such other date;

**WHEREAS**, such factors are expected to result in the City receiving a purchase price other than the par amount of the Bond and consequently (i) the aggregate principal amount of the Bond may be greater than or less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Bond set forth in paragraph 3 of this Ordinance does not exceed the Proceeds Requested by at least the amount of the VRA Costs and any original issue discount, the amount to be paid to the City, given the VRA Purchase Price Objective and market conditions, will be less than the Proceeds Requested; and

**WHEREAS**, in accordance with Section 15.2-2606 of the Code of Virginia of 1950, as amended (the “Virginia Code”), on March 8, 2016, the Council held a public hearing on the issuance of the Bond to finance the Projects;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, VIRGINIA, AS FOLLOWS:**

1. **Authorization of Bond and Use of Proceeds.** The Council hereby determines that it is advisable to cause the City to contract a debt and to issue the Bond in an aggregate principal amount not to exceed \$14,525,000. The Bond shall be designated as the City of Fredericksburg, Virginia, General Obligation Bond, Series 2016. The issuance and sale of the Bond under the terms of this Ordinance is authorized. The proceeds from the issuance and sale of the Bond shall be used, along with other available City funds, if any, to (i) finance the Project, and (ii) pay the costs of issuing the Bond.

2. **Award and Sale to the Virginia Resources Authority.** The award and sale of the Bond to or at the direction of VRA is authorized. The Bond shall be delivered to or upon the order of VRA upon VRA's payment of the purchase price to be set forth in the Financing Agreement.

3. **Details of Bond.** The Bond shall be issued as a single fully registered bond. The Council authorizes the issuance and sale of the Bond on terms as shall be determined by VRA subject to VRA's Purchase Price Objective and market conditions described above; provided, however, the Bond (i) shall be in an aggregate principal amount of the Bond not to exceed \$14,525,000, (ii) shall have a true interest cost not to exceed 4.0% (exclusive of Supplemental Interest (as defined in the Financing Agreement)), (iii) shall have a final maturity not later than December 31, 2036, and (iv) shall be subject to prepayment upon the terms set forth in the Financing Agreement. Subject to the preceding terms, the Council further authorizes the City Manager to accept the final terms presented by VRA, including (a) the final principal amount of the Bond and (b) the amortization schedule (including the principal installment dates and amounts) for the Bond.

If the limitation on the maximum aggregate principal amount of the Bond set forth in this paragraph 3 restricts VRA's ability to generate the Proceeds Requested, taking into account the VRA Costs, the VRA Purchase Price Objective and market conditions, the City Manager is authorized to accept a purchase price for the Bond at an amount less than the Proceeds Requested.

As set forth in the Financing Agreement, the City agrees to pay such “supplemental interest” and other charges as provided therein, including such amounts as may be necessary to maintain or replenish a VRA Reserve. The principal amount of and premium, if any, and interest on the Bond shall be payable in lawful money of the United States of America.

4. **Payments under Financing Agreement.** The City agrees to pay all amounts required by the Financing Agreement, including any “Supplemental Interest,” as provided therein.

5. **Redemption of Bond.** The principal of and premium, if any, and interest on the Bond shall be payable as set forth in the Bond and the Financing Agreement. The City may, at its option, redeem, prepay or refund the Bond upon the terms set forth in the Financing Agreement.

6. **Pledge of Full Faith and Credit.** The full faith and credit of the City are irrevocably pledged for the payment of the principal of, premium, if any, and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment of the Bond, the City Council shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of, premium, if any, and interest on the Bond.

Hereby specifically approved for inclusion in the Financing Agreement is the provision providing that VRA may take action to the extent permitted by law pursuant to Sections 15.2-2659 and 62.1-216.1 of the Virginia Code, commonly referred to as the “state-aid intercept.”

7. **Approval of Financing Agreement.** The Financing Agreement is approved in substantially the form presented to this meeting, with such changes, insertions or omissions as may be approved by the City Manager whose approval shall be evidenced conclusively by the execution and delivery of the Financing Agreement on the City's behalf. The City Manager is authorized to execute and deliver the Financing Agreement and such other documents and certificates as such officer may consider necessary in connection therewith.

The actions of the City Manager in accepting the final terms of the Financing Agreement and the Bond shall be conclusive, and no further action shall be necessary on the part of the Council.

8. **Form, Execution and Delivery of the Bond.** The Bond shall be issued as a typewritten bond in substantially the form of Exhibit A attached hereto with such variations, insertions, or deletions as may be approved by the City Manager. The Mayor or Vice Mayor is authorized and directed to execute the Bond and the City Clerk or Deputy City Clerk is authorized and directed to affix the seal of the City thereon and to attest such seal. Such officers are further authorized and directed to deliver the Bond to or at the direction of VRA upon payment of the purchase price set forth in the Financing Agreement. The City Manager's approval or determination of all of the details and provisions of the Bond that have been authorized and/or directed to be approved or determined in accordance with this Ordinance shall be evidenced conclusively by the execution and delivery of the Bond on the City's behalf.

9. **Registration, Transfer and Exchange.** The Director of Fiscal Affairs is hereby appointed as the City's registrar and transfer agent (the "Registrar") to keep books for the registration and transfer of the Bond, to authenticate the Bond and to make such registrations and transfers under such reasonable regulations as the Council may prescribe.

Upon surrender for transfer or exchange of the Bond at the office of the Registrar, the applicable City officials shall execute and deliver in the name of the transferee or transferees a new Bond in a principal amount equal to the Bond surrendered and of the same form and maturity and bearing interest at the same rate or rates as the Bond surrendered. If presented for transfer, exchange, redemption or payment, the Bond shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and substance reasonably satisfactory to the Registrar, duly executed by the registered owner or by his or her duly authorized attorney-in-fact or legal representative. No Bond may be registered to bearer.

A new Bond delivered upon any transfer or exchange shall be a valid limited obligation of the City, evidencing the same debt as the Bond surrendered and shall be secured by and entitled to all of the security and benefits of this Ordinance and the Financing Agreement to the same extent as the Bond surrendered.

10. **Preparation of Printed Bond.** The City shall initially issue the Bond in typewritten form. Upon request of the registered owner and upon presentation of the Bond at the office of the Registrar, the City shall arrange to have prepared, executed and delivered in exchange as soon as practicable the Bond in printed form in an aggregate principal amount equal to the unpaid principal of the Bond in typewritten form, in denominations of \$5,000 and multiples thereof or such other amount requested by VRA, of the same form and maturity and registered in such names as requested by the registered owners or their duly authorized attorneys or legal representatives. The printed Bond may be executed by manual or facsimile signature of the Mayor or Vice Mayor, and the City's seal is to be affixed thereto and attested by the City Clerk or Deputy City Clerk; provided, however, that if both such signatures are facsimiles, no Bond shall be valid until it has been authenticated by the manual signature of the Registrar and the date of authentication noted thereon. The typewritten Bond surrendered in any such exchange shall be canceled.

11. **Charges for Exchange or Transfer.** No charge shall be made for any exchange or transfer of a Bond, but the Registrar may require payment by the registered owner of the Bond

of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

12. **Mutilated, Lost, Stolen or Destroyed Bond.** If a Bond has been mutilated, lost, stolen or destroyed, the applicable City officials shall execute and deliver a new Bond of like date and tenor in exchange and substitution for, and upon delivery to the Registrar and cancellation of, such mutilated Bond, or in lieu of and in substitution for such lost, stolen or destroyed Bond; provided, however, that the City shall execute, authenticate and deliver a new Bond only if the registered owner thereof has paid the reasonable expenses and charges of the City in connection therewith and, in the case of a lost, stolen or destroyed Bond (i) has filed with the Registrar evidence satisfactory to him or her that such Bond was lost, stolen or destroyed and that the holder of the Bond was the registered owner thereof and (ii) has furnished to the City indemnity satisfactory to the Registrar. If the Bond has matured, instead of issuing a new Bond, the City may pay the same without surrender thereof upon receipt of the aforesaid evidence and indemnity.

13. **Disclosure Documents.** The City authorizes and consents to the inclusion of information with respect to the City to be contained in VRA's Preliminary Official Statement and VRA's Official Statement in final form, both prepared in connection with the sale of the VRA Bonds, a portion of the proceeds of which will be used to purchase the Bond. If appropriate, such disclosure documents shall be distributed in such manner and at such times as any of them shall determine. The City Manager is authorized and directed to take whatever actions are necessary and/or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

14. **Tax Documents.** The City Manager and the Director of Fiscal Affairs, either of whom may act, are authorized to execute a Nonarbitrage Certificate and Tax Compliance Agreement or any related document (the "Tax Documents") setting forth the expected use and investment of the proceeds of the Bond and containing such covenants as may be necessary in order for the VRA Bonds to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), including the provisions of Section 148 of the Tax Code and applicable regulations relating to "arbitrage bonds." The City covenants that the proceeds from the issuance and sale of the Bond will be invested and expended as set forth in the Tax Documents, to be delivered simultaneously with the issuance and delivery of the Bond and that the City shall comply with the other covenants and representations contained therein.

15. **SNAP Investment Authorization.** The City has heretofore received and reviewed the Information Statement (the "Information Statement") describing the State Non-Arbitrage Program of the Commonwealth ("SNAP") and the Contract Creating the State Non-Arbitrage Program Pool I (the "Contract"), and the City has determined to authorize the Director of Fiscal Affairs, and/or acknowledge and consent to the trustee for the VRA Bonds, to utilize SNAP in connection with the investment of the proceeds of the Bond. The City acknowledges the Treasury Board of the Commonwealth is not, and shall not be, in any way liable to the City in connection with SNAP, except as otherwise provided in the Contract.

16. **Further Actions; Authorized Representative.** All officers and agents of the Council and the City are authorized and directed to take such further actions in conformity with

the purpose and intent of this Ordinance as may be necessary or appropriate in connection with the issuance and sale of the Bond, and the execution, delivery and performance of the Financing Agreement, including the execution and delivery on behalf of the City of such instruments, documents or certificates as necessary or appropriate to carry out the transactions contemplated by this Ordinance. All actions previously taken by such officers and agents in connection with the issuance and sale of the Bond are ratified and confirmed. The City Manager is designated the City's Local Representative for purposes of the Financing Agreement.

17. **Filing of Ordinance.** The City Attorney is authorized and directed to file a certified copy of this Ordinance with the Circuit Court of the City of Fredericksburg pursuant to Sections 15.2-2607, 15.2-2627 and 15.2-2653 of the Virginia Code.

18. **Repeal of Conflicting Ordinances.** All Ordinances are repealed to the extent they are inconsistent with this Ordinance.

19. **Effective Date.** This Ordinance shall take effect immediately.

**Approved as to form:**

\_\_\_\_\_  
Kathleen Dooley, City Attorney

**First Reading:** \_\_\_\_\_

**Second Reading:** \_\_\_\_\_

At a regular meeting of the City Council of the City of Fredericksburg, Virginia, held on the \_\_\_\_ day of March, 2016, at which the following members were present and absent:

PRESENT:

ABSENT:

Ordinance No. 16-\_\_\_\_ entitled “Ordinance Providing for Issuance and Sale of a General Obligation Bond, Series 2016 of the City of Fredericksburg, Virginia, in an Amount Not to Exceed \$14,525,000, and the Form, Details and Payment Thereof” was adopted by the affirmative roll call vote of a majority of all members of the Council, the ayes and nays being recorded in the minutes of the meeting as shown below:

Member

Vote

The undersigned City Clerk of the City of Fredericksburg, Virginia, certifies that the following ordinance constitutes a true and correct extract from the minutes of a regular meeting of the Council held on the \_\_\_\_ day of March, 2016, and of the whole thereof so far as applicable to the matters referred to in such extract, adopted by the foregoing vote at such meeting at which the foregoing members were present and absent.

**WITNESS** my signature and the seal of the City of Fredericksburg, Virginia, this \_\_\_\_ day of March, 2016.

(SEAL)

\_\_\_\_\_  
City Clerk, City of Fredericksburg  
Virginia

**(BOND FORM)**

**REGISTERED**

**REGISTERED**

No. R-\_\_

\$\_\_\_\_\_

**UNITED STATES OF AMERICA**

**COMMONWEALTH OF VIRGINIA**

**CITY OF FREDERICKSBURG**

**GENERAL OBLIGATION BOND, SERIES 2016**

**INTEREST RATE**

**DATED DATE**

\_\_\_\_\_ %

\_\_\_\_\_, 2016

**REGISTERED OWNER: VIRGINIA RESOURCES AUTHORITY**

**PRINCIPAL AMOUNT:**

The **CITY OF FREDERICKSBURG, VIRGINIA** (the "City"), for value received, promises to pay, upon surrender hereof at the office of the Director of Fiscal Affairs of the City (the "Registrar"), to the registered owner hereof, initially Virginia Resources Authority ("VRA"), or registered assigns or legal representative (the "Registered Owner"), the principal amount stated above in annual installments in the amounts and on the dates set forth in Schedule I attached hereto, and to pay interest hereon semiannually on each April 1 and October 1, beginning \_\_\_\_\_ 1, 201\_\_, at the annual interest rates set forth in Schedule I. Interest, calculated on a 30 day month / 360 day year basis, is payable (a) from the dated date set forth above, if this bond is authenticated prior to \_\_\_\_\_ 1, 201\_\_, or (b) otherwise from the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 that is, or immediately precedes, the date on which this bond is authenticated (unless payment of interest hereon is in default, in which case this bond shall bear interest from the date to which interest has been paid).

If any installment of principal of and interest on this bond is not paid to the registered owner of this bond within ten days after its due date, the City shall pay to the Registered Owner a late payment charge in an amount equal to five percent (5%) of the overdue installment.

Subject to the provisions of the Local Bond Sale and Financing Agreement dated as of \_\_\_\_\_, 2016 (the "Financing Agreement"), between VRA and the City, so long as this bond is held by or for the account of VRA or its registered assigns or legal representative, interest is payable by (i) check or draft mailed to the Registered Owner of this bond at the address that

appears on the 15th day of the month preceding each interest payment date on the registration books kept by the City Director of Fiscal Affairs, who has been appointed bond registrar and paying agent (the “Registrar”), or (ii) wire transfer pursuant to the most recent wire instructions received by the Registrar from such registered owner, except that the final payment is payable upon presentation and surrender of this bond at the office of the Registrar. Principal of and premium, if any, and interest on this bond shall be payable in lawful money of the United States of America. In case the payment date on this bond shall not be a Business Day (as defined below), then payment of principal, premium, if any, and interest need not be made on such date, but may be made on the next succeeding Business Day, and, if made on such next succeeding Business Day, no additional interest shall accrue for the period after such payment date. “Business Day” means any Monday, Tuesday, Wednesday, Thursday or Friday on which commercial banking institutions generally are open for business in New York and Virginia.

The bond is issuable as a fully registered bond in the denomination of the principal amount thereof. Upon surrender of this bond at the office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the City shall execute, and the Registrar shall authenticate and deliver in exchange, a new bond or bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner hereof or his duly authorized attorney or legal representative, all subject to the limitations and conditions provided in the ordinance providing for the issuance of the bonds. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto, other than taxes or governmental charges of the City.

This bond is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia (the “Commonwealth”), including the Public Finance Act of 1991, and an ordinance adopted by the City Council on March \_\_, 2016, to finance the renovation of the Walker-Grant school building and upgrade and replacement of the City’s public safety radio system.

The full faith and credit of the City are irrevocably pledged for the payment of principal of, premium, if any, and interest on this bond. Unless other funds are lawfully available and appropriated for timely payment of this bond, the City Council shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all taxable property within the City sufficient to pay when due the principal of, premium, if any, and interest on this bond.

If any failure of the City to pay all or any portion of any required payment of the principal of or premium, if any, or interest on this bond results in a withdrawal from any VRA Reserve (as defined in the Financing Agreement), the interest rates applicable to this bond shall be increased to interest rates sufficient to reimburse the VRA Reserve for any foregone investment earnings and/or pay any interest, fees or penalties assessed as a result of the drawing on the VRA Reserve. The increment of interest payable pursuant to the increase in rates shall be referred to as “Supplemental Interest.” The term “interest” as used in this bond shall include Supplemental Interest, when and if payable. The City’s obligation to pay Supplemental Interest shall commence

on the date of VRA's withdrawal of funds from the VRA Reserve occasioned by the City's failure to pay a required payment or portion thereof as described above (the "Supplemental Interest Commencement Date"). The City's obligation to pay Supplemental Interest shall terminate on the date on which the City remedies such failure to pay by making all payments required but outstanding since the date of such failure to pay (the "Supplemental Interest Termination Date"). From the Supplemental Interest Commencement Date to the Supplemental Interest Termination Date, Supplemental Interest shall be due and payable on the regularly scheduled interest payment dates provided for in this bond. As soon as reasonably possible after the Supplemental Interest Commencement Date and before the next regularly scheduled interest payment date provided for in this bond, VRA shall deliver to the City a certificate as to the increase in interest rates and the amount of Supplemental Interest. The certificate shall set forth in reasonable detail the basis for the increase in interest rates and the manner of calculation of the increase and the amount of Supplemental Interest. Such certificate shall be conclusive (absent manifest error) as to the interest rate increase and amount of Supplemental Interest set forth therein. In determining the interest rate increase and the amount of Supplemental Interest, VRA may use any reasonable averaging and attribution methods.

This bond may be redeemed, prepaid or refunded at the option of the City upon the terms set forth in the Financing Agreement.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month of such interest payment date.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth to happen, exist or be performed precedent to and in the issuance of this bond have happened, exist and have been performed, and this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth.

This bond shall not be valid until the Registrar shall have executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

**IN WITNESS WHEREOF**, the City of Fredericksburg, Virginia, has caused this bond to be signed by the signature of its Mayor, its seal to be affixed or printed hereon and attested by its City Clerk, and this bond to be dated the dated date set forth above.

(FORM)

\_\_\_\_\_  
Mayor,  
City of Fredericksburg, Virginia

(SEAL)

**ATTESTED:**

(FORM)

\_\_\_\_\_  
City Clerk,  
City of Fredericksburg, Virginia

**CERTIFICATE OF AUTHENTICATION**

Date Authenticated: \_\_\_\_\_

This bond is the bond described in the within-mentioned ordinance.

Director of Fiscal Affairs of the City, as Registrar

By: (FORM)  
Authorized Officer



**SCHEDULE I TO  
CITY OF FREDERICKSBURG, VIRGINIA  
GENERAL OBLIGATION BOND  
SERIES 2016**

<b>Principal Installment <u>Number</u></b>	<b>Principal Installment <u>Amount</u></b>	<b>Principal Installment <u>Due Date</u></b>	<b>Interest <u>Rate</u></b>
--	--	--	---------------------------------

[to be completed after pricing of VRA Bonds]

**LOCAL BOND SALE AND FINANCING AGREEMENT**

**Between**

**VIRGINIA RESOURCES AUTHORITY**

**and**

**CITY OF FREDERICKSBURG, VIRGINIA**

**Dated as of April 1, 2016**

**Virginia Resources Authority  
Infrastructure and State Moral Obligation Revenue Bonds  
(Virginia Pooled Financing Program)  
Series 2016**

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## LOCAL BOND SALE AND FINANCING AGREEMENT

This **LOCAL BOND SALE AND FINANCING AGREEMENT** is dated as of April 1, 2016, and is between the **VIRGINIA RESOURCES AUTHORITY**, a public body corporate and a political subdivision of the Commonwealth of Virginia ("VRA"), and the **CITY OF FREDERICKSBURG, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the "Local Government").

A. VRA intends to issue its Related Series of VRA Bonds, as hereinafter defined, and to use a portion of the proceeds thereof to acquire from the Local Government the Local Bond, as hereinafter defined.

B. VRA and the Local Government wish to set forth herein certain terms, conditions and provisions related to the purchase of the Local Bond, the application of the proceeds thereof, the payment of the debt service thereon and the security therefor, and the use and maintenance of the Related Financed Property, as hereinafter defined.

**NOW, THEREFORE**, VRA and the Local Government agree as follows:

### ARTICLE I DEFINITIONS

**Section 1.1 Definitions.** Each capitalized term contained in this Agreement has the meaning set forth below:

**"2016A Acquisition Fund"** has the meaning set forth in the Related Supplemental Series Indenture.

**"Act"** means the Virginia Resources Authority Act, Chapter 21, Title 62.1 of the Code of Virginia of 1950, as amended.

**"Agreement"** means this Local Bond Sale and Financing Agreement dated the date first written above, between VRA and the Local Government, as modified, altered, amended or supplemented in accordance with the terms hereof.

**"Business Day"** means any day on which commercial banking institutions are generally open for business in New York, New York and Richmond, Virginia.

**"Closing Date"** means May 25, 2016, or such other date as may be determined by VRA.

**"Consulting Engineer"** means the Local Engineer or the Outside Engineer.

**["County Tax Document"** means the Nonarbitrage Certificate and Tax Compliance Agreement dated the Closing Date, between the Local Government, Stafford County and VRA, as modified, altered, amended and supplemented.]

**"Effective Date"** means April 1, 2016.

**"Event of Default"** has the meaning set forth in Section 10.1.

**"Financing Parameters"** means the parameters established by the governing body of the Local Government regarding the terms and conditions of the Local Bond, which may include a maximum paramount, maximum "true" interest cost or targeted savings.

**"Fiscal Year"** means the 12-month period beginning July 1 of one year and ending on June 30 of the following year, or if the Local Government has established another 12-month period as its annual accounting period such other 12-month period.

**"Government Obligations"** means direct obligations of, or obligations the payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America.

**"Local Account"** means the local account established for the Local Bond within the 2016A Acquisition Fund.

**"Local Authorization"** means the ordinance adopted on March 22, 2016, by a majority of the members of the governing body of the Local Government approving (i) the transactions contemplated by and authorizing the execution and delivery of the Local Bond Documents and (ii) the execution, issuance and sale of the Local Bond subject to the Financing Parameters.

**"Local Bond"** means the Local Government's [NAME OF LOCAL BOND], issued in the original principal amount set forth in Schedule 1.1, as such bond may be amended or modified.

**"Local Bond Documents"** means this Agreement and the Local Tax Document.

**"Local Engineer"** means an officer or employee of the Local Government so designated in writing by a Local Representative, which officer or employee (i) is licensed as a professional engineer in Virginia, (ii) has recognized standing and experience in the design and construction of facilities similar to the Project and (iii) is subject to VRA's reasonable approval.

**"Local Government"** means the City of Fredericksburg, Virginia.

**"Local Representative"** means (i) the chair or vice chair of the governing body of the Local Government, (ii) the chief executive officer of the Local Government and (iii) any other official or employee of the Local Government authorized by ordinance of the governing body of the Local Government to perform the act or sign the document in question.

**"Local Tax Document"** means the [County Tax Document and the School Tax Document].

**"Master Indenture"** means the Master Indenture of Trust dated as of December 1, 2003, between VRA and the Trustee, as modified, altered, amended and supplemented in accordance with its terms.

**"Outside Engineer"** means a firm of independent consulting engineers with recognized standing in the field of radio communications or structural engineering, as applicable, and licensed as professional engineers in Virginia that the Local Government designates in writing, subject to VRA's reasonable approval.

**"Proceeds Requested"** means [\$\_\_\_\_\_].

**"Project"** means the projects described in Exhibit B.

**"Project Budget"** means the budget for the Project set forth in Schedule 1.1.

**"Project Costs"** means the costs of the Project to the extent such costs are included in the definition of "cost" set forth in Section 62.1-199 of the Act, and includes the refunding of obligations of VRA or the Local Government issued to finance or refinance "costs" set forth in Section 62.1-199 of the Act.

**"Purchase Price"** has the meaning set forth in Schedule 1.1 and represents the amount received by the Local Government from the sale of the Local Bond to VRA. The Purchase Price of the Local Bond will be determined by adding to or subtracting from the portion of the par amount of the Related Portion of VRA Bonds the Local Government's share of the net original issue premium or discount on the Related Series of VRA Bonds and by subtracting from the par amount of the Related Portion of VRA Bonds the Local Government's share of VRA's expenses as set forth in Section 3.2 and the Local Government's share of the deposit on the Closing Date to any applicable VRA Reserve. It is acknowledged that the Purchase Price does not include any accrued interest on the Local Bond from its dated date to the Closing Date.

**"Registrar"** means the officer or employee of the Local Government designated under the Local Authorization to maintain the registration books for the Local Bond.

**"Related Financed Property"** means the land, building, equipment and other property, the acquisition, construction, renovation, or equipping of which was financed by the Local Bond as part of the Project.

**"Related Portion of VRA Bonds"** means the portion of the Related Series of VRA Bonds allocable to the Local Bond (as determined by VRA), including any bonds issued by VRA to refund such Related Series of VRA Bonds in whole or in part.

**"Related Series of VRA Bonds"** means the Virginia Resources Authority Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program), Series 2016A (or such other series of Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program that is specified in Schedule 1.1), in the original aggregate principal amount set forth in Schedule 1.1, and, unless the Local Government receives notice to the contrary from VRA, any bonds issued by VRA to refund the Related Series of VRA Bonds in whole or in part.

**"Related Supplemental Series Indenture"** means the Thirty-Fifth Supplemental Series Indenture of Trust dated as of November 1, 2015, between VRA and the Trustee, as modified,

altered, amended and supplemented in accordance with its terms and those of the Master Indenture.

**"Revenue Fund"** has the meaning set forth in the Master Indenture.

**"Sale Date"** means May \_\_, 2014, or such other date specified in Schedule 1.1.

[**"School Tax Document"** means the Nonarbitrage Certificate and Tax Compliance Agreement dated the Closing Date, between the Local Government, the Fredericksburg City Public School Board and VRA, as modified, altered, amended and supplemented.]

**"Supplemental Interest"** has the meaning set forth in Section 6.1.

**"Stafford County"** means the County of Stafford, Virginia.

**"System Use Agreement"** means the Radio Communications System Use Agreement dated December 20, 2015, between the Local Government and Stafford County, which provided for the use by the Local Government of Stafford County's emergency radio communications system.

**"Trustee"** means U.S. Bank National Association, Richmond, Virginia, as trustee under the Master Indenture and the Related Supplemental Series Indenture, or its successors serving in such capacity.

**"Virginia SNAP"** means the Commonwealth of Virginia State Non-Arbitrage Program.

**"VRA"** means the Virginia Resources Authority, a public body corporate and a political subdivision of the Commonwealth of Virginia.

**"VRA Bonds"** means the Related Series of VRA Bonds and any additional bonds issued under the Master Indenture.

**"VRA Reserve"** means any one or more of the Capital Reserve Fund, the Infrastructure Debt Service Reserve Fund, the Operating Reserve Fund, a CRF Credit Facility or an Infrastructure Revenue DSRF Facility, each as defined in the Master Indenture.

**Section 1.2 Rules of Construction.** The following rules apply to the construction of this Agreement unless the context requires otherwise:

(a) Singular words connote the plural number as well as the singular and vice versa.

(b) Words importing the redemption or calling for redemption of the Local Bond do not refer to or connote the payment of the Local Bond at its stated maturity.

(c) All references in this Agreement to particular Articles, Sections or Exhibits are references to Articles, Sections or Exhibits of this Agreement unless otherwise indicated.

(d) The headings and table of contents as used in this Agreement are solely for convenience of reference and do not constitute a part of this Agreement and do not affect its meaning, construction or effect.

## **ARTICLE II REPRESENTATIONS**

**Section 2.1 Representations by VRA.** VRA represents to the Local Government as follows:

(a) VRA is a duly created and validly existing public body corporate and political subdivision of the Commonwealth of Virginia vested with the rights and powers conferred upon it under the Act.

(b) VRA has full right, power and authority to (i) issue, sell and deliver the Related Series of VRA Bonds, (ii) direct the Trustee to use a portion of the proceeds of the Related Series of VRA Bonds to purchase the Local Bond from the Local Government as contemplated under the Related Supplemental Series Indenture and this Agreement and (iii) carry out and consummate all other transactions contemplated by this Agreement.

(c) VRA has duly authorized, executed and delivered this Agreement, and this Agreement constitutes a legal, valid and binding obligation of VRA enforceable against VRA in accordance with its terms.

**Section 2.2 Representations by Local Government.** The Local Government represents to VRA as follows:

(a) The Local Government is a duly created and validly existing Virginia "local government" (as defined in Section 62.1-199 of the Act) and is vested with the rights and powers conferred upon it by Virginia law.

(b) The Local Government has full right, power and authority to (i) adopt the Local Authorization and execute and deliver the Local Bond Documents and all related documents, (ii) issue, sell and deliver its Local Bond to the Trustee, (iii) [own] and operate the Related Financed Property, (iv) undertake the Project and (v) carry out and consummate all of the transactions contemplated by the Local Authorization, the Local Bond and the Local Bond Documents.

(c) The Local Authorization authorized the execution and delivery of this Agreement, and this Agreement is in substantially the same form as presented to the Local Government's governing body at its meeting at which the Local Authorization was adopted. The Local Authorization was filed in the Circuit Court of the City of Fredericksburg on \_\_\_\_\_, 2016.

(d) The Local Government has obtained all governmental permits, licenses, registrations, certificates, authorizations and approvals required to have been obtained as of the Effective Date for the Local Government's (i) adoption of the Local Authorization, (ii) execution and delivery of the Local Bond Documents and the Local Bond, (iii) performance of its

obligations under the Local Bond Documents and the Local Bond, (iv) the undertaking of the Project and (v) the operation and use of the Related Financed Property. The Local Government knows of no reason why any such required governmental permits, licenses, registrations, certificates, authorizations or approvals not required to be obtained by the Effective Date cannot be obtained as required in the future.

(e) The Local Government has executed and delivered this Agreement, and this Agreement constitutes a legal, valid and binding obligation of the Local Government enforceable against the Local Government in accordance with its terms.

(f) When executed and delivered in accordance with the Local Authorization and this Agreement, the Local Bond will have been executed and delivered by duly authorized officials of the Local Government and will constitute a legal, valid and binding general obligation of the Local Government enforceable against the Local Government in accordance with its terms.

(g) The issuance of the Local Bond and the execution and delivery of the Local Bond Documents and the performance by the Local Government of its obligations thereunder are within the powers of the Local Government and will not conflict with, or constitute a breach or result in a violation of (i) to the best of the Local Government's knowledge, any federal, or Virginia constitutional or statutory provision, including the Local Government's charter or articles of incorporation, if any, (ii) any agreement or other instrument to which the Local Government is a party or by which it is bound or (iii) any order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Local Government or its property.

(h) The Local Government is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in default under any instrument under and subject to which any indebtedness for borrowed money has been incurred. No event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including but not limited to this Agreement, which constitutes, or which, with notice or lapse of time, or both, would constitute an event of default thereunder.

(i) The Local Government (i) to the best of the Local Government's knowledge, is not in violation of any existing law, rule or regulation applicable to it in any way that would have a material adverse effect on its financial condition or its ability to perform its obligations under the Local Bond or the Local Bond Documents and (ii) is not in default under any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the Local Government is a party or by which it is bound or to which any of its assets is subject that would have a material adverse effect on its financial condition or its ability to perform its obligations under the Local Bond and the Local Bond Documents. The Local Government's execution and delivery of the Local Bond and the Local Bond Documents and its compliance with the terms and conditions thereof will not conflict with or result in a breach of or constitute a default under any of the foregoing.

(j) The Local Government reasonably expects that, unless otherwise permitted by the terms of the Local Bond Documents or approved by VRA, the Local

Government will [own,] operate and control the Related Financed Property at all times during the term of the Local Bond.

(k) Except as set forth in Exhibit C, there are not pending nor, to the best of the Local Government's knowledge, threatened against the Local Government, any actions, suits, proceedings or investigations of a legal, equitable, regulatory, administrative or legislative nature (i) affecting the creation, organization or existence of the Local Government or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the approval, execution, delivery or performance of the Local Authorization, the Local Bond Documents or the issuance or delivery of the Local Bond, (iii) in any way contesting or affecting the validity or enforceability of the Local Bond, the Local Authorization, the Local Bond Documents or any agreement or instrument relating to any of the foregoing, (iv) in which a judgment, order or resolution may have a material adverse effect on the Local Government or its business, assets, condition (financial or otherwise), operations or prospects or on its ability to perform its obligations under the Local Authorization, the Local Bond Documents or the Local Bond or (v) affecting the Project.

(l) The financial statements, applications and other information that the Local Government furnished to VRA in connection with this Agreement fairly and accurately portray the Local Government's financial condition, as of their dates, and there has been no material adverse change in the financial condition of the Local Government since the date of the financial statements provided to VRA in connection with this Agreement.

(m) Nothing that would constitute an Event of Default hereunder has occurred and is continuing, and no event or condition exists that with the passage of time or the giving of notice, or both, would constitute an Event of Default hereunder.

**Section 2.3 Representations Remade as of the Sale Date.** (a) It shall be a condition precedent of VRA's obligation to sell the Related Series of VRA Bonds that the Local Government's representations and warranties set forth in Section 2.2 be true and accurate in all respects on the Sale Date.

(b) If prior to the Sale Date, any representation or warranty set forth in Section 2.2 becomes untrue or inaccurate, then the Local Government shall notify VRA within one Business Day of becoming aware of such facts, and VRA, in its sole and absolute discretion, shall determine whether to sell VRA Bonds on behalf of the Local Government, which series of VRA Bonds (if any) to sell on behalf of the Local Government and any additional conditions precedent to the sale of such VRA Bonds or the purchase of the Local Bond.

### **ARTICLE III PURCHASE OF THE LOCAL BOND**

**Section 3.1 Purchase of the Local Bond.** (a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth or incorporated herein, VRA shall purchase, solely from the proceeds of the Related Series of VRA Bonds, all, but not less than all, of the Local Bond from the Local Government, and the Local Government shall, subject to the Financing Parameters, sell and deliver to VRA the Local Bond for the Purchase

Price. The Local Government acknowledges that the Purchase Price is determined by VRA, is subject to VRA's Purchase Price Objective (as defined below) and market conditions as described below, and is expected to be substantially equal to the Proceeds Requested. The Local Government shall issue the Local Bond pursuant to the Local Authorization and in substantially the form of Exhibit A to this Agreement. As a condition of VRA entering into this Agreement, the Local Government shall deliver to VRA a copy of the Local Authorization as adopted prior to the date hereof.

(b) The Local Government acknowledges that VRA has advised the Local Government that its objective is to pay the Local Government the Purchase Price for its Local Bond which in VRA's judgment reflects the market value of the Local Bond ("Purchase Price Objective"), taking into consideration the Financing Parameters, the purchase price received by VRA for the Related Series of VRA Bonds, the underwriters' discount and other issuance costs of the Related Series of VRA Bonds and other market conditions relating to the sale of the Related Series of VRA Bonds. The Local Government further acknowledges that VRA has advised it that such factors may result in the Local Bond having a value other than par and that in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, the Local Government may need to issue the Local Bond with a par amount that is greater or less than the Proceeds Requested. The Local Government shall not issue the Local Bond if doing so would violate any Financing Parameter. The Local Government shall issue the Local Bond at a par amount that provides to the fullest extent practicable given VRA's Purchase Price Objective, a Purchase Price at least equal to the Proceeds Requested, all in accordance with the Local Authorization. The Local Government acknowledges that the Purchase Price will be less than the Proceeds Requested if any Financing Parameter prevents VRA from generating a Purchase Price substantially equal to the Proceeds Requested, based upon VRA's Purchase Price Objective.

**Section 3.2 Issuance Expenses.** VRA shall pay, or cause to be paid, from the proceeds of the Related Series of VRA Bonds all expenses incident to the performance of VRA's obligations under and the fulfillment of the conditions imposed by this Agreement in connection with the issuance, sale and delivery of the Related Series of VRA Bonds and the purchase of the Local Bond on the Closing Date, including, but not limited to: (i) the cost, if any, of preparing and delivering the Related Series of VRA Bonds; (ii) the cost of preparing, printing and delivering the Preliminary Official Statement and the Official Statement for the Related Series of VRA Bonds and any amendment or supplement thereto; (iii) the fees and expenses of the financial advisor(s) and bond counsel to VRA; and (iv) all other costs and expenses incurred by VRA. The Local Government shall pay all expenses of the Local Government incident to the issuance, sale and delivery of the Local Bond, including, but not limited to the fees and disbursements of the financial advisor, counsel and bond counsel to the Local Government from the Purchase Price or other funds of the Local Government.

**Section 3.3 Schedule 1.1.** VRA shall complete Schedule 1.1, which shall set forth, among other things, the principal amount, interest rates, payment schedule and Purchase Price with respect to the Local Bond and the principal amount of the Related Series of VRA Bonds on or after the Sale Date. VRA shall deliver the completed Schedule 1.1 to the Local Government and shall attach Schedule 1.1 to this Agreement. Upon delivery to the Local Government, the completed Schedule 1.1 shall become a part of this Agreement the same as if it were a part hereof on the Effective Date.

**Section 3.4 Conditions Precedent to Purchase of the Local Bond.** VRA shall not be required to cause the Trustee to purchase the Local Bond unless:

(a) VRA has received the following, all in form and substance satisfactory to VRA:

(1) Certified copies of the Local Authorization and all other ordinances and resolutions of the Local Government relating to the Local Bond Documents and the Local Bond, if any.

(2) A certificate of the appropriate officials of the Local Government dated the Closing Date as to the matters set forth in Section 2.2 and Section 2.3 (to the extent applicable), including appropriate certifications regarding the Local Bond Documents, and such other matters as VRA may reasonably require.

(3) Evidence that the Local Government has performed and satisfied all of the terms and conditions contained in this Agreement to be performed and satisfied by it as of such date.

(4) An opinion of counsel to the Local Government in substantially the form attached as Exhibit F.

(5) An opinion of bond counsel to the Local Government in form and substance reasonably satisfactory to VRA.

(6) Evidence that the Local Government has complied with the insurance provisions set forth in Section 8.1 and Section 8.2.

(7) The executed Local Bond and original executed counterparts of the Local Tax Document.

(8) A certificate of the Consulting Engineer giving the Consulting Engineer's estimate of the construction portion of the total Project Costs to be financed with the proceeds of the Local Bond, which estimate must be in an amount and otherwise compatible with the financing plan described in the Project Budget.

(9) A certificate of a Consulting Engineer (i) to the effect that the Purchase Price and funds available from the other sources specified in the Project Budget will be sufficient to pay all of the estimated Project Costs and (ii) specifying the date the Local Government is expected to complete the Project.

(10) A certificate of the Consulting Engineer to the effect that (i) all governmental permits, licenses, registrations, certificates, authorizations and approvals for the undertaking of the Project required to have been obtained as of the Closing Date have been obtained and (ii) the Consulting Engineer knows of no reason why any such required governmental permits, licenses, registrations, certificates, authorizations and approvals for the undertaking of the Project cannot be obtained as required in the future.

(11) Evidence that the Local Government is in compliance with the construction contract provisions set forth in Section 7.13 with respect to any existing contracts as of the Closing Date.

(12) A copy of the System Use Agreement and any amendments thereto.

(13) Evidence that the Local Government has obtained the Federal Communications Commission 700 MHz license required in order to operate the radio communications equipment associated with the Project.

(14) Such other documentation, certificates and opinions as VRA may reasonably require as set forth in Schedule 1.1.

(b) The initial purchasers of the Related Series of VRA Bonds have paid in full and VRA has accepted the purchase price for the Related Series of VRA Bonds on the Closing Date. It is understood that the sole source of funds to pay the Purchase Price is a portion of the proceeds of the Related Series of VRA Bonds.

#### **ARTICLE IV USE OF PURCHASE PRICE**

**Section 4.1 Deposit of Purchase Price; Investment of Amounts in Local Account.**

(a) On the Closing Date, VRA shall cause the Trustee to deposit the Purchase Price into the Local Account and to apply the Purchase Price and the earnings thereon as set forth in the Related Supplemental Series Indenture, this Agreement and the Local Tax Document.

(b) The Local Government acknowledges and consents to the investment of the Purchase Price and the earnings thereon in Virginia SNAP.

**Section 4.2 Agreement to Accomplish Project.** (a) The Local Government shall cause the Project to be acquired, constructed, expanded, renovated, equipped or financed as described in Exhibit B and in accordance with the Project Budget, this Agreement, the Local Tax Document and the plans, specifications and designs prepared by the Consulting Engineer and approved by the Local Government. The Local Government shall complete, or cause to be completed, the Project by the date set forth in the certificate delivered under Section 3.4(a)(4). The Local Government shall obtain the approval of all applicable regulatory agencies to all plans, specifications and designs for the Project. The Local Government shall maintain complete and accurate books and records of the Project Costs and permit VRA or the Trustee through their representatives to inspect such books and records at any reasonable time.

(b) Upon completion of the Project, the Local Government shall promptly deliver to VRA and the Trustee a certificate signed by a Local Representative and by the Consulting Engineer stating (i) that the Project has been completed substantially in accordance with this Article and in substantial compliance with all material applicable laws, ordinances, rules and regulations, (ii) the date of such completion and (iii) that all certificates of occupancy or other material permits then necessary for the use, occupancy and operation of the Related Financed Property have been issued or obtained. Such certificate shall be accompanied by a

copy of the final requisition submitted to the Trustee pursuant to Section 4.3, including Schedule 1 thereto.

(c) If upon completion of the Project and payment of all related costs of issuance, there is a balance remaining in the Local Account, the Trustee shall apply any remaining balance at the direction of the Local Government to pay interest on the Local Bond or in such other manner that is permitted under the Act and will not, in the opinion of a nationally-recognized bond counsel delivered to VRA and the Trustee, have an adverse effect on the tax status of the Related Series of VRA Bonds.

**Section 4.3 Disbursement of Purchase Price and Earnings.** Except as provided in Section 4.2(c), the Local Government shall apply the amounts in the Local Account solely and exclusively to the payment or reimbursement of the Local Government for the Project Costs. Not more frequently than once per calendar month, the Trustee shall disburse amounts from the Local Account to the Local Government or as directed by the Local Government upon the Trustee's receipt of the following:

(a) A requisition (upon which the Trustee and VRA shall be entitled to rely) signed by a Local Representative and containing all information called for by, and otherwise being in the form of, Exhibit D (including the Schedules thereto).

(b) Receipts, vouchers, statements, bills of sale or other evidence of payment of the related Project Costs.

(c) If any requisition includes an item for payment for labor or to contractors, builders or materialmen:

(1) a certificate, signed by a Consulting Engineer, stating that such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the construction of the Project; and

(2) a certificate, signed by a Consulting Engineer (that may rely on representations of counsel or a title insurance agency reasonably acceptable to VRA), stating that no notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable under the requisition to any of the persons, firms or corporations named in it has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of the requisition.

(d) If any requisition includes an item for payment of the cost of acquisition of any lands or easements, rights or interests in or relating to lands, there shall also be attached to such requisition:

(1) a certificate, signed by a Consulting Engineer, stating that such lands, easements, rights or interests are being acquired and are necessary or convenient for the construction of the Project; and

(2) a certificate, signed by a Consulting Engineer (that may rely on representations of counsel or a title insurance agency reasonably acceptable to VRA), stating that upon payment therefor the Local Government will have title in fee simple to, or easements, rights or interests sufficient for the purposes of, the Project over and through the subject lands.

Following VRA's approval of each such requisition and accompanying invoice(s) and certificate(s), which approval will not unreasonably be withheld, the Trustee shall pay the requisition from the Local Account in accordance with the instructions in such requisition.

**The Local Government agrees that any amounts disbursed to it or for its account from the Local Account will be (i) immediately applied to reimburse the Local Government for Project Costs it has already paid or (ii) actually spent to pay Project Costs not later than five banking days after receipt.**

**Section 4.4 No Sufficiency Warranty by VRA; Local Government Required to Complete Project.** VRA makes no warranty, either express or implied, that the Purchase Price will be sufficient to pay all or any particular portion of the Project Costs. [If the Purchase Price is not sufficient to pay in full the cost of the Project, the Local Government shall complete the Project at its own expense and shall not be entitled to any reimbursement therefor from VRA or any abatement, diminution or postponement of its payments under the Local Bond or this Agreement.

## **ARTICLE V PLEDGE AND SECURITY**

**Section 5.1 Pledge.** Under the Local Authorization, the Local Government has pledged its full faith and credit to payment of the principal of and premium, if any, and interest on the Local Bond. The Local Government covenants that this pledge shall be valid and binding from and after the Closing Date. The Local Government shall, unless other funds are lawfully available and appropriated for timely payment of the Local Bond, levy an annual tax upon all property subject to local taxation in its jurisdiction sufficient to pay the principal of and premium, if any, and interest on the Local Bond. Notwithstanding anything herein to the contrary, all of the obligations for the payment of money set forth in this Agreement (with the exception of principal of and premium, if any, and interest on the Local Bond) shall be payable only from legally available funds.

The Local Government shall hold the Special Fund and use it to account for and accumulate the funds necessary for the payment of the principal of and premium, if any, and interest on the Local Bond and all other amounts becoming due under this Agreement and to make such payments when the same become due and payable.

The Local Government agrees to cause the Special Fund to be identified in the Local Government's annual financial statements.

The Local Government hereby pledges the Special Fund and all amounts deposited therein for the payment of the principal of and premium, if any, and interest on the Local Bond and all other amounts becoming due under this Agreement. This pledge shall be valid and

binding from and after the Closing Date. The amounts deposited into the Special Fund shall immediately be subject to the lien of this pledge without any physical delivery of them or further act. The lien of this pledge shall have priority over all other obligations and liabilities of the Local Government payable from the Special Fund and the amounts deposited therein, and the lien of this pledge shall be valid and binding against all parties having claims of any kind against the Local Government regardless of whether such parties have notice of this pledge.

## **ARTICLE VI PAYMENT AND REDEMPTION OF LOCAL BOND**

**Section 6.1 Payment of Local Bond and Related Amounts.** (a) Until the principal of and premium, if any, and interest on the Local Bond and all other amounts payable under this Agreement have been paid in full, the Local Government shall pay the Trustee or VRA, as applicable, the following amounts:

(1) to the Trustee, the amounts required by the Local Bond on such dates and in such manner as provided for in the Local Bond – the term "interest," as used in the Local Bond and this Agreement, includes Supplemental Interest, when and if payable;

(2) to the Trustee, on VRA's demand, or to VRA, any amounts payable under the Local Tax Document, including without limitation the costs of any rebate calculation agent;

(3) to VRA on its demand, a late payment penalty in an amount equal to 5.0% of the payment on the Local Bond not paid within 10 days after its due date;

(4) to the Trustee, the Local Government's share (as determined by VRA) of the annual fees and expenses of the Trustee, less the Local Government's share of the net earnings on the Revenue Fund, Infrastructure Revenue Debt Service Fund and Moral Obligation Debt Service Fund established under the Master Indenture (as determined by VRA), and the Local Government shall pay such amounts no later than 15 days after VRA or the Trustee sends to the Local Government a written bill for them; [and]

(5) to VRA the reasonable costs and expenses, including reasonable attorneys' fees, if any, incurred by VRA in connection with (i) an Event of Default or default by the Local Government under this Agreement (ii) any amendment to or discretionary action that VRA undertakes at the request of the Local Government under this Agreement, any other document related to the Related Series of VRA Bonds or the Local Bond or (iii) any claim, lawsuit or other challenge to the Local Bond, the VRA Bonds or this Agreement that arises, at least in part, out of the Local Government's authorization of its issuance of the Local Bond, and the Local Government shall pay such amounts no later than 15 days after VRA or the Trustee sends to the Local Government a written bill for them

(b) If any failure of the Local Government to pay all or any portion of any required payment of the principal of or premium, if any, or interest on the Local Bond results in a

withdrawal from or a drawing on any VRA Reserve, the interest rates applicable to the Local Bond shall be increased to interest rates sufficient to reimburse the VRA Reserve for any foregone investment earnings on the funds withdrawn therefrom and pay any interest, fees or penalties assessed as a result of the withdrawal from or drawing on the VRA Reserve. The increment of interest payable pursuant to the increase in rates shall be referred to as "Supplemental Interest." The Local Government's obligation to pay Supplemental Interest shall commence on the date of the withdrawal or drawing of funds from the VRA Reserve occasioned by the Local Government's failure to pay a required payment or portion thereof as described above (the "Supplemental Interest Commencement Date"). The Local Government's obligation to pay Supplemental Interest shall terminate on the date on which the Local Government makes all payments required but outstanding since the date of the initial failure to pay (the "Supplemental Interest Termination Date"). From the Supplemental Interest Commencement Date to the Supplemental Interest Termination Date, Supplemental Interest shall be due and payable on the regularly scheduled interest payment dates provided for in the Local Bond. As soon as reasonably possible after the Supplemental Interest Commencement Date and before the next regularly scheduled interest payment date provided for in the Local Bond, VRA shall deliver to the Local Government a certificate as to the increase in interest rates and the amount of Supplemental Interest. The certificate shall set forth in reasonable detail the basis for the increase in interest rates and the manner of calculation of the increase and the amount of Supplemental Interest. Such certificate shall be conclusive (absent manifest error) as to the interest rate increase and amount of Supplemental Interest set forth therein. In determining the interest rate increase and the amount of Supplemental Interest, VRA may use any reasonable averaging and attribution methods.

(c) The Local Government shall pay the amounts described above and make payments as scheduled under the Local Bond despite any amount being withdrawn from or drawn on a VRA Reserve pursuant to the Master Indenture.

**Section 6.2 Defeasance and Redemption of Local Bond.** (a) The Local Government shall not defease or redeem the Local Bond (in whole or in part), except as provided in this Section 6.2.

(b) The Local Government shall satisfy the following conditions prior to the defeasance and redemption of the Local Bond:

(1) The Local Government shall provide to VRA not less than 60 days' prior written notice of the deposit of the funds described in (2), (3) and (4) below.

(2) The Local Government shall deposit with the Trustee an amount sufficient for VRA to establish an escrow of cash and non-callable, non-prepayable Government Obligations the principal of and interest on which will be sufficient (without reinvestment) to cause the defeasance under Article XII of the Master Indenture of the portion of the Related Portion of VRA Bonds corresponding to the portion of the Local Bond to be defeased or prepaid (the "Allocated Portion"). The defeasance of the Allocated Portion may be either to maturity or an earlier redemption date as determined by the Local Government.

(3) The Local Government shall deposit with VRA cash in an amount sufficient, as determined by VRA, to pay for a verification report required for the defeasance of the Allocated Portion under Article XII of the Master Indenture, any costs incurred by VRA in connection with the redemption, refunding and defeasance of the Allocated Portion, all amounts overdue or then due on the Local Bond (including, without limitation, any Supplemental Interest) and all amounts overdue, due or to become due under Section 6.1(a) of this Agreement.

(4) The Local Government shall deposit with VRA cash in an amount equal to the present value of interest that would be paid on the principal of the Allocated Portion at a rate equal to 0.125%, payable semiannually, to the maturity dates of the Allocated Portion or, if earlier, the redemption date or dates of the Allocated Portion. Present value shall be determined by using a discount rate equal to the true interest cost of the Related Portion of VRA Bonds.

(c) VRA will determine which Related Portion of VRA Bonds will be designated as the Allocated Portion and the amounts to be deposited under subsection (b)(2) and (3) above using such reasonable allocation and estimation methods as may be selected by VRA, and VRA's determinations shall be conclusive (absent manifest error).

(d) The Local Government acknowledges that no funds in any VRA Reserve will be available to the Local Government for the defeasance or redemption of the Local Bond.

**Section 6.3 Payments and Rights Assigned.** The Local Government hereby consents to VRA's assignment to the Trustee of VRA's rights under this Agreement and the Local Bond. The Local Government also hereby acknowledges and consents to the reservation by VRA of the right and license to enjoy and enforce VRA's rights under the Local Bond and this Agreement so long as no Event of Default (as defined in the Master Indenture) with respect to the Related Series of VRA Bonds has occurred and is continuing. Even though VRA will be the registered owner of the Local Bond, the Local Government shall pay directly to the Trustee all amounts payable by the Local Government under the Local Bond and this Agreement (except for those amounts specifically indicated as payable to VRA under Section 6.1 or Section 11.8, which the Local Government shall pay directly to VRA).

**Section 6.4 Obligations Absolute and Unconditional.** The obligation of the Local Government to make the payments required by the Local Bond and this Agreement from the sources pledged therefor shall be absolute and unconditional. The Local Government shall pay all such amounts without abatement, diminution or deduction (whether for taxes or otherwise) regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Local Government may have or assert against VRA, the Trustee or any other person.

## ARTICLE VII OPERATION AND USE COVENANTS

**Section 7.1 Maintenance.** At its own cost and expense the Local Government shall operate the Related Financed Property in a proper, sound and economical manner in compliance

with all legal requirements and shall maintain the Related Financed Property in good repair and operating condition and from time to time shall make all necessary repairs, renewals and replacements.

**Section 7.2 Additions and Modifications.** At its own expense the Local Government from time to time may make any renewals, replacements, additions, modifications or improvements to the Related Financed Property that the Local Government deems desirable, provided that any such renewal, replacement, addition, modification or improvement does not (i) materially reduce the value of the Related Financed Property or (ii) negatively affect the structural or operational integrity of any part of the Related Financed Property. The Local Government shall ensure that all such renewals, replacements, additions, modifications or improvements comply with all applicable federal, state and local laws, rules, regulations, orders, permits, authorizations and requirements. All such renewals, replacements, additions, modifications and improvements shall become part of the Related Financed Property.

**Section 7.3 Permits.** The Local Government shall, at its sole cost and expense, obtain all permits, consents and approvals required by local, state or federal laws, ordinances, rules, regulations or requirements in connection with the acquisition, construction, equipping, occupation, operation or use of the Related Financed Property. The Local Government shall, upon request, promptly furnish to VRA and the Trustee copies of all such permits, consents and approvals.

**Section 7.4 Use.** The Local Government shall comply with all lawful requirements of any governmental authority regarding the Related Financed Property, whether now existing or subsequently enacted, whether foreseen or unforeseen or whether involving any change in governmental policy or requiring structural, operational or other changes to the Related Financed Property, irrespective of the cost of making the same.

**Section 7.5 Inspection and Local Government's Books and Records.** The Local Government shall permit VRA, the Trustee and their duly authorized representatives and agents such reasonable rights of access to the Related Financed Property as may be necessary to determine whether the Local Government is in compliance with the requirements of this Agreement, and the Local Government shall permit such parties, at all reasonable times and upon reasonable prior notice to the Local Government, to examine and copy the Local Government's books and records that relate to the Related Financed Property.

**Section 7.6 Ownership.** The Local Government shall not construct, reconstruct or install any part of the Related Financed Property on (i) lands other than those which the Local Government owns or can acquire title to or a perpetual easement over, in either case sufficient for the Local Government's purposes or (ii) lands in which the Local Government has acquired a right or interest less than a fee simple or perpetual easement, unless (1) such part of Related Financed Property is lawfully located in a public street or highway or (2) the Local Government provides a written opinion of counsel or a report of a Qualified Independent Consultant, either of which in a form reasonably acceptable to VRA, that indicates that the lands and the Local Government's right or interest therein is sufficient for the Local Government's purposes.]

**Section 7.7 Construction Contractors.** The Local Government shall cause each general construction contractor employed in the accomplishment of the Project to furnish a performance bond and a payment bond each in an amount equal to 100% of the particular contract price. Such bonds must list the Local Government, VRA and the Trustee as beneficiaries. Neither VRA nor the Trustee shall make any claims or exercise any rights under such bonds unless and until an Event of Default occurs. The Local Government shall cause each contractor to maintain during the construction period covered by the particular construction contract builder's risk insurance, workmen's compensation insurance, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Consulting Engineer.

## **ARTICLE VIII INSURANCE, DAMAGE AND DESTRUCTION**

**Section 8.1 Insurance.** The Local Government shall maintain or cause to be maintained insurance against such risks as are customarily insured against by public bodies operating municipal facilities, including, without limitation:

(a) Insurance in the amount of the full replacement cost of the municipal facilities' insurable portions against loss or damage by fire and lightning, with broad form extended coverage endorsements covering damage by windstorm, explosion, aircraft, smoke, sprinkler leakage, vandalism, malicious mischief and such other risks as are normally covered by such endorsements (limited only as may be provided in the standard form of such endorsements at the time in use in Virginia). The determination of replacement cost shall be made, in conjunction with representatives of the Local Government, by a recognized appraiser or insurer selected by the Local Government and reasonably acceptable to VRA.

(b) Comprehensive general liability insurance with a combined single limit of \$1,000,000 per year against liability for bodily injury, including death resulting therefrom, and for damage to property, including loss of its use, arising out of the ownership, maintenance, operation or use of municipal facilities.

(c) Unless the Local Government qualifies as a self-insurer under Virginia law, worker's compensation insurance.

Neither VRA nor the Trustee shall have any responsibility or obligation with respect to (i) the procurement or maintenance of insurance or the amounts or the provisions with respect to policies of insurance or (ii) the application of the proceeds of insurance.

The Local Government shall provide annually to VRA a certificate or certificates of the respective insurers evidencing the fact that the insurance required by this Section is in force and effect.

**Section 8.2 Requirements of Policies.** The Local Government shall maintain all insurance required by Section 8.1 with generally recognized responsible insurance companies selected by the Local Government and reasonably acceptable to VRA. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other localities of like size and character to the Local Government. If the Local Government does not

maintain such insurance with an insurer licensed to do business in Virginia or placed under the requirements of the Virginia Surplus Lines Insurance Law, Chapter 48, Title 38.2, Code of Virginia of 1950, as amended, or any successor statute, the Local Government shall provide evidence reasonably satisfactory to VRA that such insurance is enforceable under Virginia law.

**Section 8.3 Notice of Damage, Destruction or Condemnation.** In case of (i) any damage to or destruction of any material part of the Related Financed Property, (ii) a taking of all or any part of the Related Financed Property or any right in it under the exercise of the power of eminent domain, (iii) any loss of the Related Financed Property because of failure of title or (iv) the commencement of any proceedings or negotiations which might result in such a taking or loss, the Local Government shall notify VRA in writing within ten Business Days of the occurrence describing generally the nature and extent of such damage, destruction, taking, loss, proceedings or negotiations.

**Section 8.4 Damage and Destruction.** If all or any part of the Related Financed Property is destroyed or damaged by fire or other casualty, and the Local Government shall not have exercised its option, if such option is available, to redeem the outstanding Local Bond pursuant to Section 6.2, the Local Government shall restore promptly the property damaged or destroyed to substantially the same condition as before such damage or destruction, with such alterations and additions as the Local Government may determine and which will not impair the capacity or character of the Related Financed Property for the purposes for which it then is being used or is intended to be used. The Local Government may apply so much as may be necessary of the net proceeds of insurance received on account of any such damage or destruction to payment of the cost of such restoration, either on completion or as the work progresses. If such net proceeds are not sufficient to pay in full the cost of such restoration, the Local Government shall pay so much of the cost as may be in excess of such net proceeds.

**Section 8.5 Condemnation and Loss of Title.** If title to or the temporary use of all or any part of the System shall be taken under the exercise of the power of eminent domain or lost because of failure of title, and the Local Government shall not have exercised its option, if such option is available, to redeem the outstanding Local Bond pursuant to Section 6.2, the Local Government shall cause the net proceeds from any such condemnation award or from any title insurance to be applied to the restoration of the System to substantially its condition before the exercise of such power of eminent domain or failure of title. If such net proceeds are not sufficient to pay in full the cost of such restoration, the Local Government shall pay so much of the cost as may be in excess of such net proceeds.

## **ARTICLE IX SPECIAL COVENANTS**

**Section 9.1 Tax Covenants.** The Local Government shall not directly or indirectly use or permit the use of any of the proceeds of the Local Bond or any other of its funds, in such manner as would, or enter into, or allow any other person or entity to enter into, any arrangement, formal or informal, that would, or take or omit to take any other action that would, cause interest on any of the Related Series of VRA Bonds to be includable in gross income for federal income tax purposes or to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. Insofar as the Local

Tax Document imposes duties and responsibilities on the Local Government, including the payment of any arbitrage rebate in respect of the Related Series of VRA Bonds, as of the Closing Date they are specifically incorporated by reference into this Agreement. The Local Government also consents to the calculation of any "rebate amount" to be paid with respect to the Related Portion of VRA Bonds by a rebate calculation service selected by VRA.

**Section 9.2 Maintenance of Existence.** The Local Government shall maintain its existence as a municipal corporation of the Commonwealth of Virginia under Virginia law, and shall not dissolve or otherwise dispose of all or substantially all of its assets or consolidate or merge with or into another entity without VRA's prior written consent, which consent will not be unreasonably withheld.

**Section 9.3 Financial Records and Statements.** The Local Government shall maintain proper books of record and account in which proper entries shall be made in accordance with generally accepted government accounting standards, consistently applied, of all its business and affairs. The Local Government shall have an annual audit of the financial condition of the Local Government made by an independent certified public accountant, within 210 days after the end of each Fiscal Year. The Local Government shall furnish to VRA, in an electronic format, a copy of such report immediately after it is accepted by the Local Government. Such report shall include statements in reasonable detail, certified by such accountant, reflecting the Local Government's financial position as of the end of such Fiscal Year and the results of the Local Government's operations and changes in the financial position thereof for the Fiscal Year.

**Section 9.4 Certification as to No Default and Tax Compliance.** The Local Government shall deliver to VRA, within 180 days after the close of each Fiscal Year, a certification in substantially the form attached as Exhibit G and signed by a Local Representative.

**Section 9.5 Further Assurances.** The Local Government shall to the fullest extent permitted by law pass, make, do, execute, acknowledge and deliver such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming the rights and collateral, if any, assigned or pledged by this Agreement, or as may be required to carry out the purposes of this Agreement. The Local Government shall at all times, to the fullest extent permitted by law, defend, preserve and protect the pledges made under this Agreement and all rights of VRA under this Agreement against all claims and demands of all persons, including without limitation the payment of certain costs of VRA as described in Section 6.1(a)(5).

**Section 9.6 Assignment by Local Government.** The Local Government shall not assign its rights and obligations under the Local Bond or this Agreement, or both, without the prior written consent of VRA.

**Section 9.7 Continuing Disclosure.** (a) For purposes of this Section 9.7, the following terms and phrases have the following meanings:

"**Annual Financial Information**" with respect to any Fiscal Year for the Local Government means the following:

(i) the financial statements (consisting of at least a balance sheet and a statement of revenues and expenses) of the Local Government, which financial statements must be (A) prepared annually in accordance with generally accepted accounting principles in effect from time to time consistently applied (provided that nothing in this clause (A) will prohibit the Local Government after the date of this Agreement from changing such other principles so as to comply with generally accepted accounting principles as then in effect or to comply with a change in applicable law) and (B) audited by an independent certified public accountant or firm of such accountants in accordance with generally accepted auditing standards as in effect from time to time (provided that if audited financial statements are not available for filing when required by this Section or the Rule (as defined herein), unaudited financial statements will be filed and audited financial statements will be filed as soon as possible thereafter); and

(ii) operating data of the type set forth in Exhibit E.

**"Dissemination Agent"** means any person, reasonably acceptable to VRA, whom the Local Government contracts in writing to perform its obligations as provided in subsection (i) of this Section.

**"Make Public"** or **"Made Public"** has the meaning set forth in subsection (c) of this Section.

**"Material Local Government"** means the Local Government if the aggregate outstanding principal amount of the Local Bond and any other of the Local Government's local bonds purchased with proceeds of the VRA Bonds represent 15% or more of the outstanding aggregate principal amount of the local bonds purchased with proceeds of the VRA Bonds.

**"Rule"** means Rule 15c2-12, as it may be amended from time to time, under the Securities Exchange Act of 1934 and any similar rules of the SEC relating to disclosure requirements in the offering and sale of municipal securities, all as in effect from time to time.

**"SEC"** means the U.S. Securities and Exchange Commission.

(b) The Local Government shall Make Public or cause to be Made Public:

(1) Within seven months after the end of the Local Government's Fiscal Year (commencing with the Fiscal Year in which the Closing Date occurs), Annual Financial Information for such Fiscal Year as of the end of which the Local Government constitutes a Material Local Government. Annual Financial Information may be set forth in the documents Made Public or may be included in a document Made Public by specific reference to any document available to the public on the internet website of the Municipal Securities Rulemaking Board ("MSRB") or filed with the SEC. If the document referred to is a final official statement, then it must be available from the MSRB.

(2) In a timely manner, notice of any failure by the Local Government to Make Public or cause to be Made Public Annual Financial Information pursuant to the terms of part (1) of this subsection.

(c) For purposes of this Section, information and notices shall be deemed to have been "Made Public" if transmitted to VRA, to the Trustee and to the MSRB in an electronic format as prescribed by the MSRB.

(d) The Local Government shall also notify VRA of the occurrence of any of the following events that may from time to time occur with respect to the Local Bond, such notice to be given in a timely manner not in excess of five Business Days after the occurrence of the event:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on any credit enhancement maintained with respect to the Local Bond reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 – TEB) or other notices or determinations with respect to the Local Bond that could affect the tax status of the Related Series of VRA Bonds, or other events with respect to the Local Bond that could affect the tax status of the Related Series of VRA Bonds;
- (7) modifications to rights of holders;
- (8) bond calls and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the Local Bond;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Local Government;
- (13) the consummation of a merger, consolidation, or acquisition involving the Local Government or the sale of all or substantially all of the assets of the Local Government, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such action, other than pursuant to its terms;

(14) appointment of a successor or additional trustee for the Local Bond, if any, or the change of name of a trustee; and

(15) the failure of the Local Government on or before the date required by this Agreement to provide Annual Financial Information to the persons and in the manner required by this Agreement.

(e) Additionally, upon request of VRA, the Local Government shall certify in writing that it has made all filings and disclosures under this Section or any similar undertaking pursuant to the Rule.

(f) Notwithstanding anything in this Agreement to the contrary, the Local Government need not comply with the provisions of subsections (a) through (d) above unless and until VRA has notified the Local Government that it satisfied the objective criteria for a Material Local Government as of the end of VRA's immediately preceding fiscal year.

(g) (1) If the Local Government fails to comply with any covenant or obligation set forth in this Section, any holder (within the meaning of the Rule) of VRA Bonds then Outstanding may, by notice to the Local Government, proceed to protect and enforce its rights and the rights of the other holders by an action for specific performance of the Local Government's covenants or obligations set forth in this Section.

(2) Notwithstanding anything herein to the contrary, any failure of the Local Government to comply with any disclosure obligation specified in this Agreement (i) shall not be deemed to constitute an Event of Default under this Agreement and (ii) shall not give rise to any right or remedy other than that described in part (1) of this subsection.

(h) The Local Government may from time to time disclose certain information and data in addition to that required under this Section. Notwithstanding anything in this Agreement to the contrary, the Local Government shall not incur any obligation to continue to provide, or to update, such additional information or data.

(i) The Local Government may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligation to cause to be Made Public the information described in this Section and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. It is not necessary for purposes of this Article that the Dissemination Agent have any agency relationship with the Local Government for purposes of state law.

(j) All documents Made Public under this Section shall be accompanied by identifying information as prescribed by the MSRB.

**Section 9.8 Litigation; Material Change.** The Local Government shall promptly notify VRA of (i) the existence and status of any litigation that City Attorney or general counsel to the Local Government (as applicable) determines is not reasonably certain to have a favorable outcome and which individually or in the aggregate could have a material adverse effect on the financial condition or operations of the Local Government or its ability to perform its payment

and other obligations under this Agreement or the Local Bond or (ii) any change in any material fact or circumstance represented or warranted in this Agreement.

## **ARTICLE X DEFAULTS AND REMEDIES**

**Section 10.1 Events of Default.** Each of the following events is an "Event of Default":

(a) The failure to pay any installment of principal of or premium, if any, on the Local Bond when due (whether at maturity, by mandatory or optional redemption, by acceleration or otherwise).

(b) The failure to pay any installment of interest (including Supplemental Interest) on the Local Bond when due.

(c) The failure to make any other payment or deposit required by this Agreement within 15 days after its due date.

(d) The Local Government's failure to perform or observe any of the other covenants, agreements or conditions of the Local Bond or this Agreement and the continuation of such failure for a period of 60 days after written notice specifying such failure and requesting that it be cured is given to the Local Government by VRA, or, in the case of any such failure which cannot with diligence be cured within such 60-day period, the Local Government's failure to proceed promptly to commence to cure the failure and thereafter to prosecute the curing of the failure with diligence.

(e) Any warranty, representation or other statement by or on behalf of the Local Government contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement or in connection with the issuance and sale of the Local Bond is false and misleading in any material respect.

(f) Any bankruptcy, insolvency or other similar proceeding shall be instituted by or against the Local Government under any federal or state bankruptcy or insolvency law and, if instituted against the Local Government, is not dismissed within 60 days after filing.

**Section 10.2 Acceleration.** Upon the occurrence and continuation of an Event of Default, VRA may, by notice in writing delivered to the Local Government, declare the entire unpaid principal of and interest on the Local Bond due and payable. Upon any such declaration, the Local Government shall immediately pay to the Trustee the entire unpaid principal of and accrued interest on the Local Bond. VRA may in its discretion waive an Event of Default and its consequences and rescind any acceleration of maturity of principal of and interest on the Local Bond.

**Section 10.3 Other Remedies.** Upon the occurrence and continuation of an Event of Default, VRA may proceed to protect and enforce its rights by mandamus or other action, suit or proceeding at law or in equity for specific performance of any agreement contained in the Local Bond or this Agreement. No remedy conferred by this Agreement upon or reserved to the registered owners of the Local Bond is intended to be exclusive of any other remedy, but each

such remedy shall be cumulative and shall be in addition to any other remedy given to VRA under this Agreement or now or hereafter existing at law or in equity or by statute.

**Section 10.4 Delay and Waiver.** No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence in it, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any default or Event of Default under this Agreement shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent to it.

## **ARTICLE XI MISCELLANEOUS**

**Section 11.1 State Aid Intercept.** The Local Government acknowledges that VRA is treating the Local Bond as a "local obligation" within the meaning of Section 62.1-199 of the Act, including amendments thereto taking effect as of July 1, 2011, which in the event of a nonpayment thereunder authorizes VRA or the Trustee to file an affidavit with the Governor that such nonpayment has occurred pursuant to Section 62.1-216.1 of the Act. In purchasing the Local Bond, VRA is further relying on Section 62.1-216.1 of the Act, providing that if the Governor is satisfied that such nonpayment has occurred, the Governor will immediately make an order directing the Comptroller to withhold all further payment to the Local Government of all funds, or of any part of them, appropriated and payable by the Commonwealth of Virginia to the Local Government for any and all purposes, and the Governor will, while the nonpayment continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to VRA, so as to cure, or cure insofar as possible, such nonpayment.

**Section 11.2 Successors and Assigns.** This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

**Section 11.3 Amendments.** VRA and the Local Government shall have the right to amend from time to time any of this Agreement's terms and conditions, provided that all amendments shall be in writing and shall be signed by or on behalf of VRA and the Local Government.

**Section 11.4 Limitation of Local Government's Liability.** In the absence of fraud or intentional misconduct, no present or future director, official, officer, employee or agent of the Local Government shall be liable personally to VRA in respect of this Agreement or the Local Bond or for any other action taken by such individual pursuant to or in connection with the financing provided for in this Agreement or the Local Bond.

**Section 11.5 Applicable Law.** This Agreement shall be governed by Virginia law.

**Section 11.6 Severability.** If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the illegality or invalidity of such clause, provision or section shall not affect the remainder of this Agreement which shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained in this Agreement. If any agreement or obligation contained in this Agreement is held to be in violation of law, then

such agreement or obligation shall be deemed to be the agreement or obligation of VRA and the Local Government, as the case may be, only to the extent permitted by law.

**Section 11.7 Notices.** Unless otherwise provided for herein, all demands, notices, approvals, consents, requests, opinions and other communications under the Local Bond or this Agreement shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class registered or certified mail, postage prepaid, addressed (a) if to the Local Government, at the address specified for notices on the signature page; (b) if to VRA, at 1111 East Main Street, Suite 1920, Richmond, Virginia 23219, Attention: Executive Director; or (c) if to the Trustee, at 1021 East Cary Street, 18<sup>th</sup> Floor, Richmond, Virginia 23219, Attention: Corporate Trust Department. A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given by any party named in this Section shall also be given to each of the other parties named. VRA, the Local Government and the Trustee may designate, by notice given hereunder, any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention the same shall be directed.

**Section 11.8 Right to Cure Default.** If the Local Government fails to make any payment or to perform any act required by it under the Local Bond or this Agreement, VRA or the Trustee, without prior notice to or demand upon the Local Government and without waiving or releasing any obligation or default, may (but shall be under no obligation to) make such payment or perform such act. All amounts so paid by VRA or the Trustee and all costs, fees and expenses so incurred shall be payable by the Local Government as an additional obligation under this Agreement, together with interest thereon at the rate of 15% per year until paid. The Local Government's obligation under this Section shall survive the payment of the Local Bond.

**Section 11.9 Term of Agreement.** This Agreement is effective as of the Effective Date. Except as otherwise specified, the Local Government's obligations under the Local Bond and this Agreement shall expire upon payment in full of the Local Bond and all other amounts payable by the Local Government under this Agreement.

**Section 11.10 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Signature Pages Follow]

**WITNESS** the following signatures, all duly authorized.

**VIRGINIA RESOURCES AUTHORITY**

By: \_\_\_\_\_  
Stephanie L. Hamlett

**CITY OF FREDERICKSBURG, VIRGINIA**

By: \_\_\_\_\_  
Beverly R. Cameron, City Manager

Address for Notices:

Post Office Box 7447  
Fredericksburg, VA 22404-7447

Attention: Beverly R. Cameron, City Manager

The Trustee, by the execution hereof, accepts the duties imposed on it by this Agreement.

**U.S. BANK NATIONAL ASSOCIATION**, as  
Trustee

By: \_\_\_\_\_  
Patricia A. Welling, Vice President

**EXHIBIT A**

**FORM OF LOCAL BOND**

[To be provided by Local Bond Counsel]

**EXHIBIT B**

**DESCRIPTION OF THE PROJECT**

[To be provided by Local Government]

**EXHIBIT C**

**PENDING OR THREATENED ACTIONS, SUITS, PROCEEDINGS, OR  
INVESTIGATIONS**

[To be provided by Counsel for the Local Government]

**EXHIBIT D**

**FORM OF REQUISITION**

Requisition No.

Date:

U.S. Bank National Association, as Trustee  
Attention: Corporate Trust Department  
1021 East Cary Street  
18<sup>th</sup> Floor  
Richmond, Virginia 23219

Virginia Resources Authority  
1111 East Main Street  
Suite 1920  
Richmond, Virginia 23219  
Attention: Executive Director

This Requisition, including Schedule 1 and Schedule 2 hereto, is submitted in connection with the Local Bond Sale and Financing Agreement dated as of April 1, 2016 (the "Financing Agreement") between the Virginia Resources Authority and the City of Fredericksburg, Virginia (the "Local Government"). Unless otherwise defined in this Requisition, each capitalized term used herein has the meaning given it under Article I of the Financing Agreement. The undersigned Local Representative hereby requests payment of the following amounts from the Local Account established for the Local Government in the 2016A Acquisition Fund established under the Thirty-Fifth Supplemental Series Indenture.

Payee:

Address:

Amount to be Paid:

Purpose (in reasonable detail) for which obligations(s) to be paid were incurred:

Attached on Schedule 2 are the wire instructions for this requisition, and also attached hereto is an invoice (or invoices) relating to the items for which payment is requested.

The undersigned certifies that (i) the amounts requested by this Requisition will be applied in accordance with the Local Tax Document and solely and exclusively to the payment, or the reimbursement of the Local Government for its payment, of Project Costs of the construction portion of the Project, (ii) no notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable under the Requisition to any of the persons, firms or corporations named in it has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of the Requisition, and (iii) this Requisition contains no items representing payment on account of any retained percentage entitled to be retained at this date.

If this Requisition includes payments for labor or to contractors, builders or materialmen, the attached Certificate of Consulting Engineer must be completed. If this Requisition includes payments for any lands or easements, rights or interest in or relating to lands, the attached Certificate of the Consulting Engineer must be completed and there must be attached to this Requisition a certificate signed by a Local Representative stating that upon payment therefor the Local Government will have title in fee simple to, or easements, rights or interests sufficient for the purposes of the construction portion of the Project over or through such lands.

**The Local Government has agreed in the Financing Agreement that any amounts it receives pursuant to this Requisition will be (i) immediately applied to reimburse the Local Government for Project Costs it has already paid or (ii) actually spent to pay Project Costs not later than five banking days after receipt.**

---

Local Representative

SCHEDULE 1

Form to Accompany Requisition

Requisition # \_\_\_\_\_  
 Recipient: City of Fredericksburg, Virginia – VRA 2016  
 Local Representative: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

<u>Cost Category</u>	<u>Total Project Cost</u>	<u>Previous Disbursements</u>	<u>Disbursement This Period</u>	<u>Disbursements to Date</u>	<u>Remaining Balance</u>
	\$	\$	\$	\$	\$
<b>TOTALS</b>	\$	\$	\$	\$	\$

SCHEDULE 2

Wire Instructions for Requisition

[To be provided by the Local Government]

**CERTIFICATE OF CONSULTING ENGINEER**

The undersigned Consulting Engineer for the Local Government hereby certifies that (i) insofar as the amounts covered by this Requisition include payments for labor or to contractors, builders or materialmen, such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the Project, and (ii) insofar as the amounts covered by the Requisition include payments for land or easements, rights or interests in or relating to lands, such lands, easements, rights or interests are being acquired and are necessary or convenient for the undertaking and completion of the Project.

Date: \_\_\_\_\_

\_\_\_\_\_  
Consulting Engineer

## **EXHIBIT E**

### **OPERATING DATA**

*Description of Local Government.* A description of the Local Government including a summary of its form of government and budgetary processes.

*Debt.* A description of the terms of the Local Government's outstanding tax-supported and revenue debt including a historical summary of such outstanding debt; a summary of authorized but unissued debt; a summary of legal debt margin (if any); a summary of overlapping debt; and a summary of annual debt service on outstanding debt as of the end of the preceding fiscal year. The annual disclosure should also include (to the extent not shown in the latest audited financial statements) a description of contingent obligations as well as pension plans administered by the Local Government and any unfunded pension liabilities.

*Financial Information and Operating Data.* Financial information and operating data respecting the Local Government including a description of revenues and expenditures for its major funds and a summary of its tax policy, structure and collections as of the end of the preceding fiscal year.

**EXHIBIT F**

**FORM OF OPINION OF COUNSEL TO THE LOCAL GOVERNMENT**

[Print on the Letterhead of Counsel for the Local Government]

May \_\_, 2016

City of Fredericksburg, Virginia  
Fredericksburg, Virginia

Virginia Resources Authority  
Richmond, Virginia

\$ \_\_\_\_\_  
**CITY OF FREDERICKBURG, VIRGINIA**  
**[Name of Local Bond]**

Ladies and Gentlemen:

I have acted as counsel to the City of Fredericksburg, Virginia (the "Local Government"), in connection with the issuance and sale by the Local Government of its \$ \_\_\_\_\_ [Name of Local Bond] (the "Local Bond"), the net proceeds of which will be applied to finance the Project (as defined in the hereafter defined Financing Agreement) and in such capacity, I have examined, among other things, the following documents:

- (a) a certified copy of the Local Authorization, authorizing the issuance and sale of the Local Bond to Virginia Resources Authority ("VRA") to finance the Project;
- (b) a copy of the Local Bond Sale and Financing Agreement (the "Financing Agreement") dated as of April 1, 2016, and between the Local Government and VRA; and
- (c) a copy of the Local Tax Document.

The documents referred to in clauses (b) and (c) above are referred to collectively as the "Local Bond Documents."

I have also examined such other records and proceedings of the Local Government and conducted such investigations as I deemed appropriate and necessary for purposes of this opinion.

Unless otherwise defined, each capitalized term used in this opinion has the same meaning given to such term in the Financing Agreement.

As to questions of fact material to the opinions and statements set forth herein, I have relied upon representations of the Local Government set forth in the Local Bond Documents and other certificates and representations by persons including representatives of the Local Government. Whenever an opinion or statement set forth herein with respect to the existence or absence of facts is qualified by the phrase "to the best of my knowledge" or a phrase of similar import, it is intended to indicate that during the course of my representation of the Local Government in connection with the Local Bond Documents no information has come to my attention that should give me current actual knowledge of the existence or absence of such facts. Except to the extent expressly set forth herein, I have not undertaken any independent investigation of the existence or absence of such facts, and no inference as to my knowledge or the existence or absence of such facts should be drawn from the fact of my representation or any other matter.

Based upon such examination and assuming the authorization, execution, delivery and enforceability of all documents by parties other than the Local Government, I am of the opinion that:

1. The Local Government is a duly created and validly existing [municipal corporation and political subdivision] of the Commonwealth of Virginia and is vested with the rights and powers conferred upon it by Virginia law.

2. The Local Government has full right, power and authority to (i) adopt the Local Authorization and execute and deliver the Local Bond Documents and all related documents, (ii) undertake the Project and (iii) carry out and consummate all of the transactions contemplated by the Local Authorization and the Local Bond Documents.

3. The Local Bond Documents were duly authorized by the Local Authorization and the Financing Agreement is in substantially the same form as presented to the Governing Body at its meeting at which the Local Authorization was adopted.

4. All governmental permits, licenses, registrations, certificates, authorizations and approvals required to have been obtained as of the date hereof have been obtained for (i) the Local Government's adoption of the Local Authorization, (ii) the execution and delivery of the Local Bond Documents and the Local Bond, (iii) the Local Government's performance of its obligations under the Local Bond Documents and the Local Bond, and (iv) to the best of my knowledge, the operation and use of the Related Financed Property. I know of no reason why any such required governmental permits, licenses, registrations, certificates, authorizations or approvals cannot be obtained as required in the future.

5. The Financing Agreement has been executed and delivered by duly authorized officials of the Local Government and constitutes a legal, valid and binding obligation of the Local Government enforceable against the Local Government in accordance with its terms. The Local Bond has been executed and delivered by duly authorized officials of the Local Government and will constitute a legal, valid and binding limited obligation of the Local Government enforceable against the Local Government in accordance with its terms.

The obligations of the Local Government under the Financing Agreement and the Local Bond, and the enforceability of such obligations, may be limited or otherwise affected by (i) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (ii) principles of equity, whether considered at law or in equity, (iii) the exercise of sovereign police powers of the Commonwealth of Virginia, and (iv) rules of law which may limit the enforceability on public policy grounds of any obligations of indemnification undertaken by the Local Government.

6. The issuance of the Local Bond and the execution and delivery of the Local Bond Documents and the performance by the Local Government of its obligations thereunder are within the powers of the Local Government and will not conflict with, or constitute a breach or result in a violation of (i) any federal or Virginia constitutional or statutory provision, (ii) to the best of my knowledge, any agreement or other instrument to which the Local Government is a party or by which it is bound or (iii) any order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Local Government or its property.

7. The Local Government, to the best of my knowledge, is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in default under any instrument under and subject to which any indebtedness for borrowed money has been incurred. To the best of my knowledge, no event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including but not limited to the Financing Agreement, which constitutes, or which, with notice or lapse of time, or both, would constitute an event of default thereunder.

8. The Local Government (i) to the best of my knowledge, is not in violation of any existing law, rule or regulation applicable to it in any way which would have a material adverse effect on its financial condition or its ability to perform its obligations under the Local Bond or the Local Bond Documents and (ii) is not in default under any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the Local Government is a party or by which it is bound or to which any of its assets is subject, which would have a material adverse effect on its financial condition or its ability to perform its obligations under the Local Bond and the Local Bond Documents. The execution and delivery by the Local Government of the Local Bond and the Local Bond Documents and the compliance with the terms and conditions thereof will not conflict with, result in a breach of or constitute a default under any of the foregoing.

9. Except as set forth in the Financing Agreement, there are not pending nor, to the best of my knowledge, threatened against the Local Government, any actions, suits, proceedings or investigations of a legal, equitable, regulatory, administrative or legislative nature (i) affecting the creation, organization or existence of the Local Government or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the approval, execution, delivery or performance of the Local Authorization or the Local Bond Documents or the issuance or delivery of the Local Bond, (iii) in any way contesting or affecting the validity or enforceability of the Local Bond, the Local Authorization, the Local Bond Documents or any agreement or instrument relating to any of the foregoing, (iv) in which a judgment, order or resolution may have a material adverse effect on the Local Government or its business, assets, condition

(financial or otherwise), operations or prospects or on its ability to perform its obligations under the Local Authorization, the Local Bond Documents or the Local Bond, or (v) affecting the undertaking of the Project.

Very truly yours,

**EXHIBIT G**

**FORM OF CERTIFICATION AS TO NO DEFAULT AND TAX COMPLIANCE**

\_\_\_\_\_, 2016

[Insert Name]  
Compliance & Financial Analyst  
Virginia Resources Authority  
1111 East Main Street, Suite 1920  
Richmond, VA 23219

Dear [Mr./Ms.] \_\_\_\_\_:

In accordance with Section 9.4 of the Local Bond Sale and Financing Agreement dated as of April 1, 2016 (the "Financing Agreement") between Virginia Resources Authority and the City of Fredericksburg (the "Local Government"), I hereby certify that, during the fiscal year that ended June 30, \_\_\_\_\_, and through the date of this letter:

1. [No event or condition has happened or existed, or is happening or existing, which constitutes, or which, with notice or lapse of time, or both, would constitute, an Event of Default as defined in Section 10.1 of the Financing Agreement.] [If an Event of Default has occurred, please specify the nature and period of such Event of Default and what action the Local Government has taken, is taking or proposes to take to rectify it].
2. [The ownership and status of all or a portion of the Related Financed Property has not changed since the Closing Date.] [If untrue, please describe.]
3. [Neither the Related Financed Property nor any portion thereof is being used by a Nongovernmental Person pursuant to a lease, an incentive payment contract or a take-or-pay or other output-type contract.] [If untrue, please describe.]
4. [Neither the Related Financed Property nor any portion or function thereof is being used pursuant to or is otherwise subject to a Service Contract that does not satisfy the requirements of Revenue Procedure 97-13, as modified by Revenue Procedure 2001-39 and IRS Notice 2014-67.] [If untrue, please describe.]
5. [Other than as may be described in paragraphs 2, 3 and 4 above, neither the Related Financed Property nor any portion or function thereof nor any portion of the Proceeds is being used for a Private Business Use.] [If untrue, please describe.]

6. [The Local Government has not used or permitted the use of any Proceeds of the Local Bond directly or indirectly to make a loan to an ultimate borrower other than itself within the meaning of Section 4.3 of the Local Tax Document.] [If untrue, please describe.]
7. [Other than any amounts described in the Local Tax Document (as defined in the Financing Agreement), between VRA and the Local Government and amounts that may constitute or be on deposit in a Bona Fide Debt Service Fund, there neither have been nor are now any moneys, securities, obligations, annuity contracts, residential rental property, AMT Bonds, investment-type property, Sinking Funds, Pledged Funds, or other Replacement Proceeds accumulated or held or pledged as security by the Local Government or any other Substantial Beneficiary of the Local Bond as security for or the direct or indirect source of the payment of the principal of or interest on the Local Bond.] [If untrue, please describe.]
8. [The Local Government is in compliance with the recordkeeping requirements of Section 4.9 of the Local Tax Document.] [If untrue, please describe.]
9. [Other than as may be described above, the Local Government is not in default of any of its obligations under the Local Tax Document.] [If untrue, please describe.]
10. Unless otherwise defined herein, each capitalized term used herein has the meaning set forth in the Local Tax Document.

Sincerely,

[Insert Name]  
Local Representative

**EXHIBIT H**  
**DESCRIPTION OF SPECIAL USE ARRANGEMENTS**

**SCHEDULE 1.1**

**FINAL TERMS**

Principal Amount of Related Series of VRA  
Bonds

Principal Amount of Local Bond

Purchase Price

The Purchase Price was determined as follows: by adding to the par amount of the portion of the Related Series of VRA Bonds (\$\_\_\_\_\_), the Local Government's share of the net premium on the Related Series of VRA Bonds (\$\_\_\_\_\_ ) and by subtracting from the par amount of the Related Series of VRA Bonds the Local Government's share of VRA's Expenses set forth in Section 3.2 (\$\_\_\_\_\_ ) and the Local Government's share of the deposit on the Closing Date to a VRA Reserve (\$\_\_\_\_\_).

**ADDITIONAL CONDITIONS PRECEDENT TO PURCHASE OF LOCAL BOND:**

**ADDITIONAL CONDITIONS PRECEDENT TO FIRST REQUISITION OF PROCEEDS  
OF LOCAL BOND:**

## PROJECT BUDGET

### Sources

Par Amount

Premium

Estimated Earnings

---

Total Sources

---

---

### Uses

Construction

Design & Engineering

Deposit to Escrow Fund

Local Costs of Issuance

VRA Costs of Issuance

Capital Reserve Fund - Partial Allocation

Underwriter's Discount

Additional Proceeds

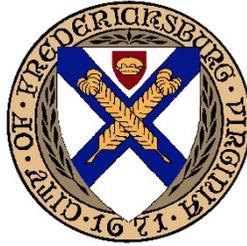
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Total Uses

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**CITY OF FREDERICKSBURG, VIRGINIA  
INTEREST RATES AND PAYMENT SCHEDULE FOR LOCAL BOND**



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Lynn Enders, Purchasing Agent  
**RE:** Proposed Changes to City Code for Purchasing  
**DATE:** March 1, 2016

---

**ISSUE**

Shall the City Council amend City Code §2-387 to raise the City’s thresholds requiring formal procurement procedures?

**RECOMMENDATION**

This item is on as a transmittal only for the March 8 meeting. Pending comments, questions, or other changes, the staff will bring the ordinance forward to City Council for first reading at the March 22, 2016 meeting.

**BACKGROUND**

The purchasing function of the City of Fredericksburg is governed by the Virginia Public Procurement Act, City Code, and internal city policies.

The Virginia Public Procurement Act (the “VPPA”) provides the overall framework for procurement for state and local government in Virginia. The VPPA allows local ordinances and policies to be substituted, as long as they are not less restrictive, for the provisions of the Act in certain circumstances. One of these areas is the determination of the dollar threshold where formal solicitations (such as an Invitation to Bid or a Request for Proposal) are required. Solicitations below a certain dollar threshold are called “small purchases” and are governed by locally-determined procedures.

The VPPA has been amended by the General Assembly in recent years to raise the threshold. Here is the current §2.2-4303 (G), which enables the public body to:

*“establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for (i) goods and services other than professional services and (ii) non transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$100,000; however, such small purchase procedures shall provide for competition wherever practicable. Such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$60,000. Where small purchase procedures are adopted for construction, the procedures shall not waive compliance with the Uniform State Building Code.”*

**Requested Ordinance – Amending City Code §2-387 Small Purchases**

The current City Code enables the City Manager to enter into contracts for goods, professional and nonprofessional services, insurance and construction up to \$30,000 without requiring a formal solicitation process such as Request for Proposals or Invitation for Bids. (RFP and IFB). The formal solicitations are time-consuming and expensive to complete. The City often purchases items that are over \$30,000, and the formal solicitation process often slows down projects.<sup>1</sup>

In addition, the current City Code requires that the City obtain more than one quote for items valued at more than \$1,000.

The attached ordinance makes the following changes:

- The small purchase threshold for goods and services is raised to \$100,000
- The small purchase threshold for professional services is raised to \$60,000
- The single-quote threshold is raised from \$1,000 to \$5,000.

The increase of the small purchase thresholds to \$100,000 for goods and services and to \$60,000 for professional services is consistent with the revised language of the Virginia Public Procurement Act. The increase of the threshold to \$5,000 for single quote items is allowed by the VPPA, and will streamline the City’s procurement of small value items. Items over \$5,000 in value, which currently require two quotes, will now be required to have three quotes.

**Associated Policy Changes**

The increase of the “small purchase” thresholds is not intended to decrease competition or vendor access to City contracts. The City’s new Purchasing Agent will assist in ensuring that small purchases are done competitively, openly, and in a way that ensures good value.

The current policy on small purchases for City staff is as follows:

**Purchasing Table for Quotes (Current)**

Type	Purchase Thresholds	Requirement
Small	\$1000 and under	Single quote
	\$1001 - \$9,999	2 quotes
	\$10,000 - \$29,999	3 quotes
Formal	Over \$30,000	Formal solicitation

Staff proposes to change this policy in conjunction with the ordinance change, to provide for the oversight role of the Purchasing Agent and ensure competition for the City’s small purchases. The City’s Purchasing Agent would be able to assist Departments with purchases under \$30,000, and would have direct responsibility for small purchases over \$30,000. The Fiscal Affairs

<sup>1</sup> As a note, the City often utilizes cooperative procurement, such as “State Contracts” for vehicles, in situations that might either call for a Small Purchase or a Formal Solicitation. The City can continue to use this method of procurement, if advantageous, if the ordinance change is adopted.

Department and the City Manager's Office will work with the Purchasing Agent to ensure availability of funds. The following table would become the new guide for City Departments:

**Purchasing Table for Quotes (Proposed)**

<b>Type</b>	<b>Purchase Thresholds</b>	<b>Requirement</b>
Small	Under \$5,000	Single quote
Small	\$5,000 to \$30,000	3 quotes minimum, Purchasing Agent available to consult & assist City staff.
Small	\$30,000 to \$100,000	3 quotes minimum; Purchasing Agent will be the designated buyer responsible for solicitation.
Formal	\$60,000 – Professional Services Only	Request for Proposal (a type of formal solicitation) required by VPPA
Formal	\$100,000 and over	Formal solicitation

The Purchasing Agent is able to use tools for City small purchases such as the Commonwealth of Virginia's e-procurement website, "eVA." The "eVA" website has a free "Quick Quote" feature. "Quick Quote" reaches a broad audience of vendors (96,488) which will increase competition, expedite the purchasing process and allow for better pricing and greater transparency of the City's procurements.

The Purchasing Agent will also be able to assist Departments with small procurements through posting a small informal solicitation on the City's website, supplemental to the "Quick Quote" process. Staff may also reach out directly to vendors for quotations, as is done now.

**FISCAL IMPACT**

The attached ordinance will assist in streamlining the City's current procurement practices. The City will benefit from the expertise of the Purchasing Agent in procuring goods and services more quickly, with open competition.

That said, there is no direct fiscal impact to the requested ordinance change.

Attachment: Ordinance Revising City Code §2-387



March 8, 2016  
Regular Meeting  
Ordinance No. 16-\_\_

MOTION:

SECOND:

RE: **AMENDING THE PROCUREMENT ORDINANCE TO INCREASE THE CITY MANAGER'S SMALL PURCHASE AUTHORITY FROM \$30,000 TO \$100,000 AND REQUIRE THREE QUOTES FOR PURCHASES OF GOODS OVER \$5,000.**

ACTION: **APPROVED: Ayes: 0; Nays: 0**

FIRST READ: \_\_\_\_\_

SECOND READ: \_\_\_\_\_

**IT IS HEREBY ORDAINED** by the Fredericksburg City Council that Chapter 2 of the City Code is amended as follows:

SEC. I. City Code Amendment.

1. **Sec. 2-287.**

- A. The City Manager may enter into contracts for the purchase of goods, ~~professional~~ and nonprofessional services, insurance, and construction without following the requirements of this article for competitive sealed bids or competitive negotiation on single or term contracts where the aggregate or the sum of all phases is not expected to exceed ~~\$30,000~~ **\$100,000**. *The City Manager may enter into contracts for the purchase of professional services without following the requirements of this article for competitive sealed bids or competitive negotiation on single or term contracts where the aggregate or the sum of all phases is not expected to exceed \$60,000.*
- B. The City Manager shall, wherever practicable, seek competitive prices on small purchases pursuant to this section. For the purchase of goods in excess of ~~\$1,000~~ **\$5,000**, the City Manager shall secure at least ~~two~~ *three* estimates or proposals from different vendors. Written quotations from vendors shall be obtained, where practicable, although verbal quotations will be permitted, provided the City Manager causes a written record of all such verbal quotations to be made and filed with the records of the transaction.

SEC. II. Effective Date.

The amendments to the City Code are effective immediately.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

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Kathleen Dooley, City Attorney

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***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held March 8, 2016 at which a quorum was present and voted.*

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***Tonya B. Lacey, CMC***  
***Clerk of Council***



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Mike Craig, Zoning Administrator  
**DATE:** February 29, 2016 (for the March 8 meeting)  
**SUBJECT:** Employment Resources, Inc (Owner) requests the amendment of the Official Zoning District Map so as to rezone a 0.8829 acre portion of the property at 404 Willis Street (GPIN 7779-91-3157) from Light Industrial (I-1) to Commercial Downtown with the condition that it shall not be used for residential purposes. RZ2016-01

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**ISSUE**

Shall the City Council approve the rezoning of a portion of 404 Willis Street (the “Property”) to Commercial Downtown with the condition that it shall not be used for residential purposes?

**RECOMMENDATION**

Approve the rezoning on second read.

**CITY COUNCIL**

The City Council held a public hearing on this rezoning request on February 23, 2016 at which no one spoke. After discussion, the Applicant stated their willingness to change its proffered condition from prohibiting residential use on the property to limiting the property to school use. The City Council then voted unanimously to approve the rezoning on first read.

The item is back before City Council for second read. The “Background” portion of this memo has been updated to add some information from the Council discussion and the revised proffer statement. The revised proffer statement is attached to this memo for consideration.

**PLANNING COMMISSION ACTION**

The Planning Commission held a public hearing on this rezoning request on January 27, 2016 at which no one spoke. After discussion, the Planning Commission voted to recommend approval 5-2. The dissenting votes felt that there needed to be stronger land use proffers associated with the application so that if the school use was to be changed in the future it would have to go back through the proffer amendment process.

**BACKGROUND** *(New information added in italics)*

Employment Resources, Incorporated (ERI) owns a 4.6229 acre parcel at 404 Willis Street. The parcel contains the Gladys Oberle School building, its parking, and a large open field. The Gladys Oberle School serves middle and high school students with serious emotional disturbances, specific learning disabilities, intellectual disability, and other health impairments as well as any student experiencing difficulty in the traditional public school setting.

The Property is across the street from Marye's Heights to the west, is adjacent to the VCR trail to the south, is across the street from an automotive service station and an apartment building to the east and is adjacent to five single family homes and the commercial uses around the Battlefield Restaurant to the north. The Property is accessed from Lafayette Boulevard by Young Street and Willis Street. The Property contains no environmental features.

404 Willis Street is split zoned. A 0.8829 portion of the Property is zoned I-1. The I-1 portion of the Property contains the main school building and its parking, yet I-1 zoning does not permit school uses. The remaining 3.7470 portion of the parcel was rezoned to Commercial Downtown with conditions associated with the Cobblestone Development in 2003. The Applicant originally proposed to change the proffers on the 3.7470 portion of the parcel but has since tabled that request.

### **DEVELOPMENT PROPOSAL**

The Applicant wants to add security vestibules to the existing school building at this time to protect the students. The vestibules consist of "Security Addition Area A" and "Security Improvement Area B" as shown on the ERI Existing Land Use Plan attached to this memo.

#### **a. Existing Zoning**

The 0.8829 portion of the Property zoned I-1 provides for commercial and light industrial uses at a 0.50 FAR. The I-1 zoning district has large setbacks: the front (Willis Street) is 50 feet and the side and rear for this Property are 40 feet. *The maximum building height in I-1 is 50 feet.*

The existing zoning is not reasonable to allow continued use and improvements to the school. The school is setback approximately 25 feet from the Willis Street right-of-way. Thus, I-1's large setbacks prohibit the construction of one of the security vestibules. Similarly, the school building is 21,170 square feet which equates to a 0.55 FAR and would prevent any expansion of the building including the security vestibules. Also, I-1 does not permit middle or high schools. The Gladys Oberle School is a legal non-conforming use.

*I-1 light industrial does permit colleges and universities, **vocational trade schools**, governmental facilities, medical laboratories, auditorium conference and conventions centers, cemeteries, community gardens, solar arrays, telecommunications structures, major and minor utilities, animal shelters, veterinary clinics, microbreweries, restaurants, general and medical offices, commercial parking garages and lots, fairgrounds, artist studios, convenience stores, banks, lumber / building materials retailers, plant nurseries, repair services, automobile service, contractor offices, equipment rental and sales, general industrial service / repair, research and development, light manufacturing, self-service storage, warehouse, and wholesale sales by-right. The school use on the property appears to have originated as a vocational trade school.*

*The Property is outside the historic district and there is no covenant or other provision requiring the reuse or preservation of the existing building. However, the entire Property is within the "Downtown District" of the Lafayette Corridor Overlay District. The "Downtown District" contains guidelines for streetscape elements, buildings and site design. Building elements controlled by the district include mass and scale, façade treatment (which includes a list of appropriate materials within the Downtown District: brick, glass, metal, stucco, stone, concrete, and wood). Any improvements on the ERI property will be subject to the Lafayette Corridor Design Guidelines.*

**b. Proposed Zoning**

The Applicant has proposed to rezone only the 0.8829 acre portion of the Property zoned I-1 to Commercial Downtown with the condition that the site shall not be used for residential development. The rezoning would:

- i. Make the existing school use a conforming use.
- ii. Create setbacks in proportion to the existing development adjacent to the school which would permit the construction of the security vestibules.
- iii. Increase the amount of non-residential square footage permitted on the property from 19,230 square feet of industrial space to 115,377 square feet of commercial space.

*The maximum building height would remain at 50 feet. Schools would be the only permitted on-site use. There would be no additional provision that the existing building had to be preserved; however, any new construction on the Property would be subject to the design controls in the Lafayette Corridor Overlay District.*

**c. Relationship to the Comprehensive Plan**

The Comprehensive Plan's Future Land Use Map calls for this area to be Commercial / Transitional Office. This project is within Land Use Planning Area 7: Downtown. Relevant Opportunities listed for Planning Area 7 include:

- i. "Support redevelopment that respects historic structure, but without dictating architectural style or limiting creativity."
- ii. "Continue revitalization of the key corridors of Princess Anne Street, Kenmore Avenue, William Street, and Lafayette Boulevard."
- iii. "Evaluate the area between Lafayette Boulevard and Hazel Run, adjacent to the National Park, for possible preservation or appropriate redevelopment."
- iv. "Respect battlefield lines-of-sight."

The parcel is in Planning Area 7D as one of the neighborhoods adjacent to Downtown. The area has historical significance as both a battlefield and a historic transportation route into the City. According to the Comprehensive Plan, "this route has a variety of zoning districts, which need to be reconsidered for a more flexible Planned Development-Mixed Use zoning" (CP 223).

The Gladys Oberle School provides unique services for middle and high school aged students for the Fredericksburg region. The Comprehensive Plan's Public Facilities goals include:

- v. Goal 3: Education Facilities. Provide high quality education facilities.
- vi. Goal 4: Education System. Provide a quality education that assures opportunity for all students, so that they are encouraged to meet high academic standards and empowered to become productive citizens.

One of the policies for public services, public facilities and preserved open space is to "identify opportunities and mechanisms for private developers to share in the cost and provision of public services and facilities..." (CP 82). While these goals are specifically written about public facilities, private schools like the Gladys Oberle School are an important piece of the overall education infrastructure in the City of Fredericksburg and the larger region.

The Historic Preservation portion of the Comprehensive Plan contains a map of Battlefield Lines of Sight (CP 147). The parcel is only in the Line of Sight from the Shelter at Lee Drive. The proposed development is not within the Line of Sight established atop the hill to the north of Marye's Heights. Elevation at the Lee Drive Shelter is 210 feet, at Marye's Heights it is 130 feet, and at the Property it is 56-60 feet.

**d. Public Facilities**

The current use of the site is a school. Public water and sewer are adequate and available. The proposed change from I-1 to CD conditional will not have a large impact on the road network. The parcel includes a portion of the formal Ludlow Street right-of-way vacated by Ordinance # 14-37. Ordinance # 14-37 has been attached to this memo.

**e. Fredericksburg National Battlefield**

The National Park Service has stated that they have no objections to the change in zoning permitting the additional security vestibules on-site.

**f. Conclusion**

The proposed rezoning is intended to bring the school use into conformance with its zoning district and permit the retrofitting of the school building to provide for modern security requirements. The rezoning from I-1 to CD with the condition that the site not be used for residential purposes will allow the reasonable continuation and modernization of the Gladys Oberle School.

Attachments:

1. Proposed Ordinance
2. *Revised Proffer Statement*



**MOTION:**

**SECOND:**

**February 23, 2016**  
**Regular Meeting**  
**Ordinance No. 16-06**  
*Amended*

**RE: REZONING APPROXIMATELY 0.8829 ACRES OF LAND LOCATED 404 WILLIS STREET FROM LIGHT INDUSTRIAL I-1 TO COMMERCIAL DOWNTOWN (CONDITIONAL)**

**ACTION: APPROVED: Ayes:0; Nays: 0**

**FIRST READ: February 23, 2016 SECOND READ: \_\_\_\_\_**

**IT IS HEREBY ORDAINED** by the Fredericksburg City Council that the official zoning map of the City, established pursuant to City Code §72-30, is amended as follows:

**I. Background Information**

This is a request to rezone approximately 0.8829 acres of land from Light Industrial zoning to Commercial Downtown (Conditional) zoning. The landowner, Employment Resources, Inc., proposes to continue the present use of the property as a middle and high school campus, ~~but this is not a binding proffer.~~ The landowner has proffered that the subject property shall ~~not be used for residential development~~ *as a school.*

In adopting this ordinance, City Council has considered the applicable factors in Virginia Code §15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the requested rezoning.

**II. Official Zoning Map Amendment**

The official zoning map, prepared in accordance with City Code §72-30, is hereby amended by rezoning from Light Industrial to Commercial Downtown (Conditional) a portion of the 4.6299 acre parcel identified as GPIN 7779-91-3157. The interior lines of the 0.88299 acre property subject to this zoning map amendment are designated as the "Zoning Line" on the plat of survey entitled "Plat Showing Lot Consolidation, Vacation of Right of Way and Reservation of a 20' Sanitary Sewer Easement on the lands of Employment Resources, Inc.," by HGP, Inc, dated December 4, 2014, recorded in the office of the Fredericksburg Circuit Court Clerk as CLR 15-714, Plat Book 17, page 161.

**III. Proffered Conditions**

This is a conditional rezoning. The voluntary proffer contained in the Voluntary Proffer Statement dated ~~January 21, 2016~~ *February 26, 2016* is accepted and shall govern the use and development of this land.

**IV. Effective Date**

This ordinance is effective immediately. The applicant shall record a certified copy of this ordinance with a notice of conditional zoning, in a form approved by the City Attorney, in the land records of the Fredericksburg Circuit Court Clerk, with the owner as the “grantor” and the City as the “grantee,” within 30 days of the adoption of this ordinance.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

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Kathleen Dooley, City Attorney

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***Clerk’s Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16-06 duly adopted at a meeting of the City Council meeting held March 8, 2016 at which a quorum was present and voted.*

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***Tonya B. Lacey, CMC  
Clerk of Council***

CITY OF FREDERICKSBURG PROFFER  
CODE OF VIRGINIA 15.2-2303  
CITY CODE 72-22.4

OWNER: Employment Resources Inc, Joan P. McLaughlin, President

PROPERTY: 404 Willis Street, Fredericksburg, VA 22401

PROJECT NAME: Gladys H. Oberle School

REZONING REQUEST: Zoning Amendment of the 0.8829 Acre portion of the 4.6299 Acre Parcel, as shown on Consolidation Plat by HGP, Inc, dated 12/04/2015, approved 3/24/2015, and recorded CLR 15-714, Plat Book 17, Page 161.

CASE NUMBER: RZ 2016 - 01

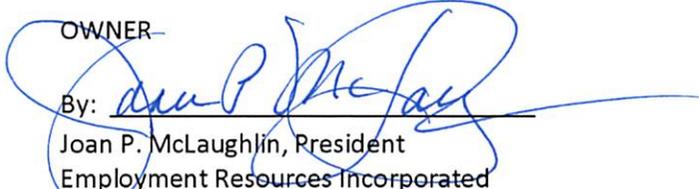
DATE: February 26, 2016

Pursuant to Code of Virginia 15.2-2303 and City Code 72-22.4, the Owner hereby voluntarily proffers the following conditions, which shall be applied to the Property if the rezoning request is approved.

The property portion subject to rezoning (0.8829 Acre) shall be for a school use.

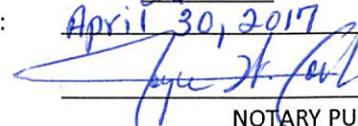
The Owner acknowledges that the foregoing Proffers are reasonable. The signatory below, signing on behalf of the Owner, covenants and warrants that she is an authorized signatory of the Owner for this Proffer Statement.

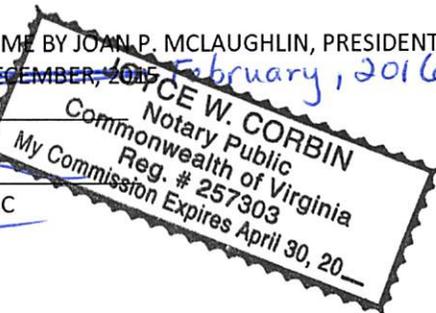
OWNER

By:   
Joan P. McLaughlin, President  
Employment Resources Incorporated  
GPIN # 7779-91-3157

NOTARY CERTIFICATE  
COMMONWEALTH OF VIRGINIA  
CITY OF FREDERICKSBURG

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY JOAN P. MCLAUGHLIN, PRESIDENT OF EMPLOYMENT RESOURCES INC THIS 26<sup>th</sup> DAY OF ~~DECEMBER, 2015~~ February, 2016  
MY COMMISSION EXPIRES: April 30, 2017

  
NOTARY PUBLIC





**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Doug Fawcett, Director of Public Works  
Robert T. Eckstrom, Assistant City Attorney  
**DATE:** February 16, 2016 (**UPDATED: MARCH 2, 2016**)  
**SUBJECT:** Proposed Revisions to City Code – Solid Waste and Recycling

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**Update**

The wording of Section 62-1 (Definitions) has been revised since first reading of the ordinance on February 23. The definition of “Trash” has been revised to read as follows – (added wording *italicized*):

**TRASH:** All solid waste except for *1) recycling, 2) hazardous material, hazardous waste, and household hazardous waste as defined in Code of Virginia § 10.1-1400, and 3) any other material designated by the Director of Public Works as ineligible for regular trash or recycling collection.*

The new language is intended to provide greater flexibility in keeping certain types of trash out of the waste stream collected by the City and deposited at the Eskimo Hill landfill.

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**ISSUE**

Repeal and reenactment of Chapter 62 of the City Code related to solid waste and addition of provisions related to recycling.

**DISCUSSION**

The provisions of the City Code related to municipal solid waste have not been updated for many years. City staff has recently conducted a general review of these provisions and recommends several revisions. Staff also recommends the adoption of provisions related to recycling.

The proposed revisions to the City Code are summarized as follows:

- **Section 62-2 (Penalties)** -- Sections 62-2 (General penalty) and 62-3 (Penalty for violation of certain sections) have been combined into a single new Section 62-2. Currently, violation of any provision of Chapter 62 is a Class 4 misdemeanor. The proposed language retains that option for use in egregious cases, but also provides for less severe administrative remedies, as follows:

- A fine equal to the cost to the City of remedying the violation;
  - The Director of Public Works may refuse to provide trash service to anyone who commits repeated violations.
- **Section 62 -4 (responsibility for compliance)** has been added.

This section reads as follows:

“Upon the expiration of a lease or other rental agreement, the owners and managers of the property formerly leased shall be responsible for compliance with the obligations of this Chapter formerly imposed upon tenants, or other occupants of the property.”

*Note: This new language addresses situations in which a tenant of a property has subscribed to the refuse collection service but then, when moving out, places large volumes of trash, sometimes including furniture and appliances, out for collection without arranging and paying in advance for a special collection.*

- **Section 62-6 (Trash and Recycling Containers)** has been rewritten to reflect current refuse and recycling collection practices. Of particular significance are the following sections:

Sub-sections “D” and “E” contain the first ever references in the City Code to recycling. Sub-section “D” requires all persons using the municipal recycling service to place the materials in City issued recycling containers (i.e., bins or wheeled carts) and Subsection “E” prohibits the placement of recyclables in plastic bags as well as the placement of plastic bags in recycling containers.

Also, a new sub-section “H” codifies current practice by providing the Director of Public Works authority to “promulgate regulations on the volume of trash and recycling permitted per container and per collection. He may also promulgate regulations and fees for bulk pickup of trash and recycling.”

- **Section 62-9 (Permit for removing or transporting trash and recycling)** – This section has been deleted in its entirety. The language in this section requires any person who desires to engage in the removal of refuse in the City to first obtain a permit to do so from the City Manager and to pay a permit fee. Other language in the section establishes standards for the vehicles to be used, annual inspection of those vehicles and placement of a tag on each vehicle indicating that it has been approved by the City.

*Note: The City ceased enforcing this section of the City Code many years ago and does not have the administrative resources to enforce it today. Vehicles used by private refuse/recycling haulers today are subject to the same inspection and licensing*

*requirements as other motorized vehicles in the Commonwealth and are also subject to applicable state health laws. There is no longer a need for the City to duplicate these requirements.*

- **Section 62-11 (Waste to be deposited only at designated sites)** – This section has been revised to list the Eskimo Hill Landfill in Stafford County specifically as the site to which all municipal solid waste collected in the City is to be transported and deposited (with certain exceptions, also being added.)
- **Other Revisions** – The remaining revisions can reasonably be characterized as “minor” in nature, including:
  - Section 62-1 (Definitions) has been rewritten to consolidate and simplify. For example, there were previously definitions of five types of solid waste (Ashes, Building Materials, Garbage, Refuse, and Rubbish) and there was no definition of Recycling. The new ordinance defines Recycling as “All materials designated by the Director of Public Works as recyclable” and Trash as “All solid waste except for recycling.”
  - The requirement that all trash containers be cleaned daily has been deleted. (Section 62-8-D.)
  - The requirement that private haulers collect trash from customers at least twice each week has been deleted. (Section 62-10-B.)

### **FISCAL IMPACT**

There are no costs directly associated with the implementation of these proposed revisions. The addition of new Section 62-4 makes it more likely that the City will be able to recover its costs associated with collecting and disposing of volumes of trash after a tenant moves out of a property.

Attachment: Ordinance



MOTION:

SECOND:

March 8, 2016  
Regular Meeting  
Ordinance No. 16-07  
*Amended*

RE: **REVISING THE SOLID WASTE CHAPTER OF THE CITY CODE TO ADDRESS CITY-OWNED TRASH CARTS, INCLUDE RECYCLING, REVISE THE PENALTIES FOR VIOLATIONS, GRANT CERTAIN ADMINISTRATIVE AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS, HOLD LESSORS RESPONSIBLE FOR VACATED RENTAL PROPERTIES, AND DELETE THE PUBLIC WORKS PERMIT REQUIREMENT FOR TRANSPORTING REFUSE**

ACTION: **APPROVED; Ayes: 0; Nays: 0**

FIRST READ: February 23, 2016 SECOND READ: \_\_\_\_\_

**IT IS HEREBY ORDAINED** by the Fredericksburg City Council that Chapter 62 of the City Code is amended as follows:

SEC. I. City Code Amendment.

**Chapter 62 – Solid Waste** of the City Code is hereby repealed and replaced with the following:

### **Chapter 62: Solid Waste**

#### **§ 62-1 – Definitions.**

RECYCLING: All materials designated by the Director of Public Works as recyclable.

TRASH: All solid waste except for 1) recycling, 2) *hazardous material, hazardous waste, and household hazardous waste as defined in Code of Virginia § 10.1-1400, and 3) any other material designated by the Director of Public Works as ineligible for regular trash or recycling collection.*

VEHICLE: Any vehicle as defined in Code of Virginia § 46.2-100.

#### **§ 62-2 - Fees for City trash and recycling collection.**

A. The City Council shall from time to time establish fees for municipal trash and recycling services. Such fees and all regulations promulgated by the City Manager under this chapter shall be published in the City administrative manual.

B. The City Manager may combine the bill for such fees with the bill for water and sewer services, in which case the same billing cycle and due dates shall apply.

C. Delinquent bills shall be assessed a one-time penalty of 10% of the balance owed on the bill at the time of delinquency, not to exceed \$100.

**§ 62-3. Trash and recycling containers.**

A. It shall be the duty of every tenant, lessee, or occupant of any residence or establishment where people reside, congregate or are employed to provide containers sufficient to handle the accumulation of trash during the intervals between collection, except for addresses that the City has designated for the use of City-owned trash carts. All containers shall conform to any regulations promulgated by the Director of Public Works.

B. Those tenants, lessees, and occupants shall prevent their trash and recycling from scattering by wind, animals, persons, or any natural causes.

C. All trash stored in City or privately owned trash containers shall be bagged.

D. All residences and establishments using municipal recycling services shall use recycling containers provided by the Director of Public Works and owned by the City.

E. Recycling stored in recycling containers shall not be bagged. Plastic bags shall not be placed into recycling containers for recycling.

F. All residences and establishments in areas designated for the use of City-owned trash carts shall use the trash carts provided by the Director of Public Works and owned by the City.

G. Placement of dumpsters on public property, specifically including streets, is subject to Chapter 66 of the City Code and any regulations promulgated by the City Manager thereunder.

H. The Director of Public Works may promulgate regulations on the volume of trash and recycling permitted per container and per collection. He may also promulgate regulations and fees for bulk pickup of trash and recycling.

I. The user of a cart, container, or dumpster, whether publicly or privately owned, shall keep it maintained and clean.

**§ 62-4 – Storage and collection points.**

All containers containing trash or recycling shall be placed at the rear or side of the property for storage between collections, unless otherwise approved in writing by the Director of Public Works or permitted under the Unified Development Ordinance. The Director of Public Works

shall designate the days and times during which trash and recycling may be placed at the curb for collection.

**§ 62-5 – Responsibility for compliance.**

Upon the expiration of a lease or other rental agreement, the owners and managers of the property formerly leased or rented shall be responsible for compliance with the obligations of this Chapter formerly imposed upon tenants, lessees, or other occupants of the property.

**§ 62-6 – Manner of collection; collection vehicle requirements.**

- A. Every trash or recycling collector shall conduct his operation in such a manner as not to hinder or interfere with the collection and disposal of trash and recycling by the City.
- B. Trash or recycling collectors shall not scatter trash or recycling, nor shall they leave trash or recycling in a condition where it could be scattered by people, animals, or natural causes.
- C. All trash and recycling shall be transported in vehicles equipped with covered, watertight, leak-proof bodies or in metal containers with tight-fitting covers.
- D. Vehicles transporting trash and recycling shall be kept clean and as free from offensive odors as reasonably possible..
- E. While engaged in the collection of trash or recycling, vehicles shall not be kept standing on any public or private property longer than reasonably necessary.

**§ 62-7 – Procedures for collection by City; frequency of collection.**

- A. The City Manager or his designee shall promulgate regulations establishing the number of weekly trash and recycling collections by the City and other regulations prescribing the methods and procedures for such collections.
- B. Private trash or recycling collectors shall collect trash from customers within the City as often as required by the City Manager to protect the public health and to prevent public nuisances.

**§ 62-8 – Waste to be deposited only at designated sites.**

- A. All trash shall be deposited at disposal sites designated by the City Manager. The City Manager shall designate the Regional Landfill and Recycling Center at 489 Eskimo Hill Road in Stafford County for the disposal of all trash collected within the City of Fredericksburg.

B. This section shall not apply to:

- (1) Disposal of household waste by occupants of single-family residences or family farms disposing of their own trash in licensed sanitary landfills.
- (2) Disposal of solid waste generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter.
- (3) Disposal of construction debris to be disposed of in a licensed sanitary landfill.
- (4) Waste oil.
- (5) Disposal of trash at any facility (i) which has been issued a solid waste management facility permit by an agency of the Commonwealth on or before July 1, 1991; or (ii) for which a Part A permit application for a new solid waste management facility permit, including local governing body certification, was submitted to the Department of Waste Management in accordance with Code of Virginia §10.1-1408.1(B) on or before December 31, 1991.

**§ 62-9 – Disposal of dead animals.**

Dead animals of sufficiently small size to permit the cover being properly placed on the garbage can after they have been placed therein may be placed in the can with the garbage. Dead animals too large to be so placed in garbage cans must be bagged and transported to the Regional Landfill and Recycling Center at 489 Eskimo Hill Road in Stafford County by and at the expense of the owner of the animal.

**§ 62-10. Handling of trash and recycling by unauthorized persons.**

It shall be unlawful for any unauthorized person to collect, interfere with, or in any way disturb the contents of any receptacle containing trash or recycling.

**§ 62-11 – Penalties.**

The Director of Public Works may assess fees for violations of this chapter, equivalent to the cost to the City of remedying the violation. These fees shall be added to the bill of the person deemed responsible for the violation.

In addition, a violation of this chapter shall be punishable as a Class 4 misdemeanor.

Nothing in this chapter precludes criminal penalties for littering under Chapter 38 of the City Code.

The Director of Public Works may refuse to provide municipal trash or recycling service for repeated violations of this chapter.

SEC. II. Effective Date.

This ordinance is effective immediately.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

\_\_\_\_\_  
Kathleen Dooley, City Attorney

\*\*\*\*\*

***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.*

\_\_\_\_\_  
***Tonya B. Lacey, CMC***  
***Clerk of Council***



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Doug Fawcett, Director of Public Works  
**DATE:** March 2, 2016  
**SUBJECT:** Rehabilitation of Route 1 Bridge over Hazel Run – Project Administration Agreement

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**ISSUE**

Adoption of a resolution authorizing the City Manager to execute an agreement with the Virginia Department of Transportation governing the rehabilitation of the Route 1 (Jefferson Davis Highway) bridge over Hazel Run and the operation and maintenance of the rehabilitated bridge after construction.

**DISCUSSION**

VDOT and the City have been working together for some time to address the need for improvements to the Route 1 bridge over Hazel Run. Initially, a complete replacement of the bridge was anticipated. However, an engineering study has now determined that a rehabilitation of the current bridge is appropriate.

The City prefers that VDOT perform the project design and construction of this project. The City will be responsible for operation and maintenance of the bridge after completion of the rehabilitation project.

**FISCAL IMPACT**

The estimated total cost of this project is \$1,005,441. The City's share (in the form of local match of two Revenue Sharing grants) is \$455,900. The City has already satisfied its match obligation for the first of the grants. The remaining balance is \$340,000. These funds are in the current year Capital Budget.

Attachment: Resolution



**MOTION:**

**March 8, 2016  
Regular Meeting  
Resolution No. 16-**

**SECOND:**

**RE:            AUTHORIZING THE CITY MANAGER TO EXECUTE A VDOT ADMINISTERED – JOINT FUNDING STANDARD PROJECT ADMINISTRATION AGREEMENT WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR REHABILITATION OF THE ROUTE 1 (JEFFERSON DAVIS HIGHWAY) BRIDGE OVER HAZEL RUN (PROJECT # 0001-111-255; UPC 100444)**

**ACTION:      APPROVED: Ayes: 0; Nays: 0**

**WHEREAS**, the City desires to undertake the rehabilitation of the Route 1 (Jefferson Davis Highway) bridge over Hazel Run; and

**WHEREAS**, the City and the Virginia Department of Transportation desire to enter into an Agreement providing for design and construction of the improvements by VDOT and post-construction operation and maintenance by the City.

**WHEREAS**, the City has been awarded grant funds to pay a portion of the costs of the design and construction of these improvements; and

**WHEREAS**, the City agrees to pay its share of the total cost for preliminary engineering, right-of-way and construction of this project and that, if the City subsequently elects to cancel this project, the City hereby agrees to reimburse VDOT for the total amount of the costs expended by VDOT through the date that VDOT is notified of such cancellation;

**NOW THEREFORE, BE IT RESOLVED**, that the Council of the City of Fredericksburg, Virginia hereby authorizes the City Manager to execute a Project Administration Agreement for these improvements with the Virginia Department of Transportation and to take all other actions necessary to the implementation of the terms of the Agreement.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

\*\*\*\*\*

***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16- duly adopted at a meeting of the City Council meeting held March 8, 2016 at which a quorum was present and voted.*

---

***Tonya B. Lacey, CMC***  
***Clerk of Council***



**Minutes**  
**Board of Zoning Appeals**  
November 16, 2015  
Council Chambers, City Hall  
Fredericksburg, Virginia

**MEMBERS PRESENT**

Helen P. Ross, Chair  
Jay Jarrell III, Vice-Chair  
Beatrice Paolucci

**MEMBERS ABSENT**

Brian Raska  
Matthew Muggeridge  
Richard Conway, Alternate

**STAFF**

Mike Craig, Zoning  
Administrator  
Rob Eckstrom, Assistant City  
Attorney  
Phaun Moore, Secretary

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Ms. Ross called the meeting to order at 4:01 p.m.

**OPENING REMARKS**

Ms. Ross determined that a quorum was present and public notice requirements had been met.

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

Ms. Ross asked if any Board member had engaged in *ex parte* communications on any item before the Board.

Ms. Paolucci said that after the September 21, 2015 meeting, she had run into Nancy Collins at the grocery store. Ms. Paolucci said that she thanked Ms. Collins for attending the meeting, but they did not discuss the case.

**DISCLOSURE OF CONFLICTS OF INTEREST**

Ms. Ross asked if any Board member had any conflicts of interest on any item before the Board. No one indicated that they had any conflicts of interest.

**APPROVAL OF AGENDA**

There were no additions or changes to the agenda.

Ms. Paolucci made a motion to accept the agenda as presented. Mr. Jarrell seconded. The motion carried unanimously.

**PUBLIC HEARING ITEMS**

1. **V15-01:** Mr. and Mrs. Strentz-McLaughlin – (owner) requests a Variance to allow a six foot high fence (including two feet of lattice work at the top) within the front yard along Littlepage Street at 814 Cornell Street (GPIN 7779-84-5870) in the R-4 Residential Zoning District. The Unified Development Ordinance limits fence height to a maximum of four feet in a front yard. 814 Cornell Street is a corner lot with front yards along both Cornell and Littlepage Streets.

Mr. Craig pointed out that there were only three members of the Board present and said that any decision made would require a unanimous vote.

Mr. Jarrell raised a point of order. He said that the BZA had previously stated that when there were only three members present, the Board could offer the applicant the opportunity to postpone to a later date when more members could be present.

The applicants' attorney, Jeannie P. Dahnk, commented that they had not been notified that the Board was not in compliance.

Mr. Jarrell clarified that the Board only needs three members present for a quorum. He explained that as a courtesy to Mr. and Mrs. Strentz-McLaughlin, the Board was offering them the opportunity to postpone, but the Board was not required to offer that option.

Ms. Dahnk had a brief discussion with Mr. and Mrs. Strentz-McLaughlin and said that they would like to postpone the hearing.

It was decided that both the City and the applicant would present their case so that anyone that wished to make public comment would be able to fully understand both sides. The Board would then continue the meeting and public hearing on Tuesday, January 5, 2016.

Mr. Craig presented his case.

Mr. Jarrell questioned the increased number of fences not in compliance.

Ms. Paolucci asked that a breakdown of permitted/not permitted fences be provided at the January 5, 2016 meeting. Mr. Craig agreed.

Ms. Dahnk presented her case.

Ms. Ross asked if there was any public comment.

Richard Hagenlocker – 810 Cornell Street spoke in favor.

Elsie Hagenlocker – 810 Cornell Street spoke in favor.

Leslie Leahy – 1106 Littlepage Street – spoke in favor.

Nancy Collins – 1109 Littlepage Street – spoke in favor.

Georgia Strentz – 922 Grove Avenue – spoke in favor.

Ms. Ross reminded everyone that the public hearing would continue on January 5, 2016.

**REVIEW OF MINUTES**

The following corrections were made to the meeting minutes from September 21, 2015:

Mr. Jarrell said that the description for the public hearing item was incorrect. It was an appeal, not a variance.

Ms. Ross commented that on page 3, Ms. Paolucci's name was misspelled.

**STAFF / BOARD COMMENTS**

Ms. Paolucci made a motion to adjourn. Mr. Jarrell seconded. The motion carried unanimously.

Meeting adjourned at 5:01 p.m.

A handwritten signature in cursive script, appearing to read "Helen P. Ross", written in black ink.

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Helen P. Ross, Chair



**Minutes**  
**Board of Zoning Appeals**  
January 5, 2016  
Council Chambers, City Hall  
Fredericksburg, Virginia

**MEMBERS PRESENT**

Helen P. Ross, Chair  
Beatrice Paolucci  
Matthew Muggeridge  
Richard Conway, Alternate

**MEMBERS ABSENT**

Jay Jarrell III, Vice-Chair  
Brian Raska

**STAFF**

Mike Craig, Zoning  
Administrator  
Kathleen Dooley, City  
Attorney  
Phaun Moore, Secretary

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Ms. Ross called the meeting to order at 4:00 p.m.

**OPENING REMARKS**

Ms. Ross determined that a quorum was present and public notice requirements had been met.

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

Ms. Ross asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated they had participated in any *ex parte* communications.

**DISCLOSURE OF CONFLICTS OF INTEREST**

Ms. Ross asked if any Board member had any conflicts of interest on any item before the Board. No one indicated that they had any conflicts of interest.

**APPROVAL OF AGENDA**

There were no additions or changes to the agenda.

Ms. Paolucci made a motion to accept the agenda as presented. Mr. Muggeridge seconded. The motion carried unanimously.

**PUBLIC HEARING ITEMS**

1. **V15-01:** Mr. and Mrs. Strentz-McLaughlin – (owner) requests a Variance to allow a six foot high fence (including two feet of lattice work at the top) within the front yard along Littlepage Street at 814 Cornell Street (GPIN 7779-84-5870) in the R-4 Residential Zoning District. The Unified Development Ordinance limits fence height to a maximum of four feet in a

front yard. 814 Cornell Street is a corner lot with front yards along both Cornell and Littlepage Streets.

The applicants were not present.

Ms. Ross stated that the applicants had filed an appeal with the Circuit Court regarding the BZA's decision on September 21, 2015 and the City Attorney recommended that the Board table the variance application until the court case had been resolved.

Mr. Conway made a motion to table the variance application until the Circuit Court had ruled on the disposition.

Ms. Paolucci asked for clarification of whether to defer or table the variance application.

Ms. Dooley explained that due to the court case there would be no definite time frame if the variance application was deferred, and said that tabling it would be more appropriate. Ms. Dooley said that Ms. Dahnk, the applicants' attorney, concurred with that decision.

Ms. Paolucci seconded the motion to table the variance application. Motion carried unanimously.

#### **REVIEW OF MINUTES**

Ms. Paolucci made a motion to approve the corrected minutes from September 21, 2015. Mr. Conway seconded. Motion carried unanimously.

Ms. Paolucci made a motion to postpone review of the minutes from November 16, 2015, since Mr. Jarrell was not present. Mr. Conway seconded. Motion carried unanimously.

#### **STAFF / BOARD COMMENTS**

Mr. Craig informed the Board that there would be a public hearing for a new variance application on January 25, 2016

Meeting adjourned at 4:21 p.m.



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Helen P. Ross, Chair

**FREDERICKSBURG  
RECREATION COMMISSION  
Minutes of January 21, 2016**

The January meeting of the Fredericksburg Recreation Commission was held on Thursday, January 21, 2016 at Maury Commons. The meeting was called to order at approximately 7:00 p.m.

Present: Commissioners Susan Tyler, Dr. Timothy Duffy, Dr. George Foster, Dr. John Gordon III, Ken Kroko, Brandon McVade, Sharon Null and Dr. Marcus Tepaske. Absent: James Bailey, Also in attendance: Jane Shelhorse and Patricia Sparks.

***Introduction of new Director, Jane C. Shelhorse***

Commission Chairwoman, Susan Tyler, introduced the new Director of Parks, Recreation and Public Facilities, Jane Shelhorse, to the Recreation Commission. Director Shelhorse gave a brief statement on her background of 8 ½ years as Director of the Louisa County Parks and Tourism Department, and 21 ½ years as Assistant Director with the City of Fredericksburg Parks, Recreation and Public Facilities Department. Director Shelhorse is excited to be back with the City and stated that she is an “old school” parks and recreation person. Director Shelhorse stated that the Dorothy Hart Community Center should create an environment for the community where residents are comfortable coming to spend time, whether people are there because of their children registering for a class or they would like to register for a class themselves. She said that some of the current staff had explained to her that they see Parks and Recreation functioning as a resource center. Director Shelhorse does not have the same vision for the future of Parks, Recreation and Public Facilities. Director Shelhorse would like to have the Commissioners involved with events and classes.

- I. **Approval of Minutes:** The minutes of December 10, 2015 were unanimously approved.
  
- II. **Public Comment:** Mr. Steven Gaske, a resident on Washington Avenue, spoke to the Commission regarding the planting of trees on the Washington Avenue Mall. Mr. Gaske feels the trees obstruct the view of the monuments. Mr. Gaske stated the residents on Washington Avenue were not consulted prior to Tree Fredericksburg planting the trees. Mr. Gaske feels the trees are small now, but they will be a problem once the trees grow. Mr. Gaske stated that the planting of trees in a historical area should be approved by the Historical Society, and the planting of trees in a park should be approved by the Recreation Commission. Mr. Gaske distributed a signed petition in opposition of the trees that were planted at the Washington Avenue Mall area. The petition was submitted to City Council on January 12, 2016. Mr. Gaske also referenced trees planted in the middle of a field near Memorial Park. The Commissioners determined that this is not a designated athletic field. Commissioner

Tyler thanked Mr. Gaske for coming to the meeting and speaking to the Commissioners about his concerns on the trees planted within the Washington Avenue Mall.

**III. Communications from Staff:** The Commissioners reviewed the following reports:

**Financial Report- December 2015**

**Sports/Parks Report – January 2016 –** The Commissioners discussed a concern of paying the school custodians for opening and closing Walker Grant Middle School on Saturdays during the basketball season.

Commissioner Gordon, and other school officials, will be discussing the issue later. Commissioner Gordon stated that he would notify Parks and Recreation staff on the proper procedure for paying the custodians.

Commissioner Gordon stated that their concern is the overtime pay for full-time school employees that work on Saturdays.

**Leisure/Special Events Report – January/February 2016**

**IV. Noteworthy Dates:** The Commissioners reviewed upcoming programs and trips.

**V. Old Business:**

**A. Pathways –** The Commissioners agreed to take pathways off the agenda.

**B. Riverfront Park –** Commissioner Duffy stated the Riverfront Task Force gave a presentation at the last City Council work session. All options are being discussed. The Riverfront Task Force presented Council with a very general park plan. City Council has approved a \$5 million budget for Riverfront Park. There will be more details discussed at the City Council work session next week. The Riverfront Task Force was tasked with coming up with a design for a park, and the City would look at a plan for parking. Commissioner Duffy stated that most of the discussion was about parking, and we need to coordinate both the park and the parking issue together. Commissioner Kroko stated that the Riverfront Task Force feels strongly about developing the area into a park and it was not their intent to use part of the park for parking, as there is a parking garage right across the street from the park. Commissioner Kroko also stated the Task Force feels that phasing in projects does not work. Commissioner Duffy stated that George Solley also expressed the same concerns with Council on parking and phasing in projects.

**C. Park Signs and Logo -** As requested by the Commissioners last fall, they agreed that once a new Parks, Recreation and Public Facilities Director was hired, discussion would continue on developing a logo and park signs. Director Shelhorse stated she is definitely on board and understands what the Commissioners were trying to accomplish in

regards to developing a uniform park logo and signs. Commissioner Null asked about public input. Director Shelhorse discussed hiring an online graphic designer. Commissioner Kroko stated that input from the community is great, but we must be very careful in asking for what we want. At this time, we are not sure what we want. We need to keep this on a professional level. Commissioner Tyler stated that we should start in-house with Supervisor of Marketing, Tiffany Capehart, and that she should be very involved. Commissioner Tepaske informed Director Shelhorse that a sub-committee met several times last year and that the sub-committee should meet again and include Tiffany Capehart. Director Shelhorse discussed this topic with Tiffany Capehart, and both agreed to keep the graphics simple. Commissioner Gordon would like to have the sub-committee present a timeline in developing the logo and park signs.

**D. Memorial Day Parade** – Commissioner Kroko asked if there was a list of things needed. Finance & Leisure Services Division Manager, Wendy Stone, who was at the meeting as a resident, and not in an official capacity, stated that once the list is finalized she would email it to the Commissioners. Wendy Stone stated that at this time we are having a problem in scheduling the parade date. Director Shelhorse stated that the parade is a great idea and asked if the parade could coincide with other Memorial Day events scheduled in the community.

## **VI. New Business:**

**A. Radio controlled planes, drones and rockets in parks** - The Commissioners received a handout in reference to the use of radio controlled planes, drones and rockets in our city parks. Commissioner Tyler thanked the Parks and Athletics Division Manager, Mike Ward, who was also at the meeting as an area resident, and not in an official capacity, for bringing this to the Commission's attention. Commissioner Tepaske stated there is a growing concern with drones, and the Federal Aviation Administration (FAA) is currently setting policies due to be released this summer. Currently, the Department is telling people that they cannot fly drones in the parks. The Commissioners agreed that staff would need to do more research on how other cities and parks are handling this situation. Developing and enforcing a policy is a completely new issue for park staff.

**B. Fredericksburg Football Club** - Director Shelhorse reported that the Fredericksburg Football Club (soccer club) had approached Mike Ward with a written proposal to "upgrade" our Parks and Recreation soccer program. The proposed changes would make it more expensive to play with them. The Fredericksburg Football Club would allow our kids to register through them for \$25.00 (our current fee), but would also charge players \$30.00 for uniforms. The Fredericksburg Football Club would supply coaches using the parents from the kids that are registered (which is what we currently do), and they would place the kids on teams. Parks and Recreation would be responsible for maintaining the fields at Dixon

Park, providing soccer goals and equipment, and paying for all the referees and officials. Mike Ward did not accept the proposal and he feels this would not be the best situation for Parks, Recreation and Public Facilities. The Fredericksburg Soccer Club sent a different proposal to City Council also wanting to upgrade/enhance our soccer program. Both proposals received would not be beneficial to the City. Our soccer program is great and we are looking into adding coaching clinics and camps.

## **VII. Commission Concerns and Topics:**

**Commissioner Tepaske** asked about discussing the Washington Avenue Mall tree planting concerns. The Commissioners agreed to continue the discussion. Mike Ward stated that the City will hold a public forum in reference to Washington Avenue Mall's landscaping on January 25, 2016, 7:00 p.m. at the Dorothy Hart Community Center. Commissioner Kroko stated the City, and Parks and Recreation needs to be on top of this situation as there are many organizations involved in the planning. Director Shelhorse stated that after the public hearing recommendations will be given to the Clean and Green Committee who will then appoint a design team to review and make recommendations for future tree planting along Washington Avenue. Mike Ward will represent Parks, Recreation and Public Facilities on the Design Team. Director Shelhorse said she had also asked Mike Ward to review the plan for planting trees at Veteran's Memorial Park and to ensure that all trees had been approved.

**Commissioner McVade** stated that last night he attended a Village of Idlewild Association meeting. There is an area along Gateway Boulevard that is City property. The Village of Idlewild leaders were quoting from the City's Future Parks Plan of 2011, which states that a large portion of this property will be donated (approximately 10 acres) by the City for a future park. The residents of Idlewild are setting up committees to plan this park. The residents would like to know if the City is moving forward with the development of this park as they have also heard rumors of an elementary school being built on this property in 2022. The leaders for the Village of Idlewild will be doing a walk-through on the proposed property on February 2 with a City Official. Commissioner McVade was asked to get the officials name. Director Shelhorse was not aware of this park development and referred it to Mike Ward. Mike Ward stated that there had been several lengthy discussions about developing this property into a park. Ryland Homes stated that they have completed the environmental issue concerns. The property continues to be on the Future Park Plans.

**Commissioner Kroko** stated the Commission needs to stay ahead of the tree planting issue and more importantly, we need to have accurate information. Mike Ward stated that Washington Avenue Mall is not a designated park, but is maintained by Park Maintenance. The property

was requested to be designated park property in the Future Parks Plan.

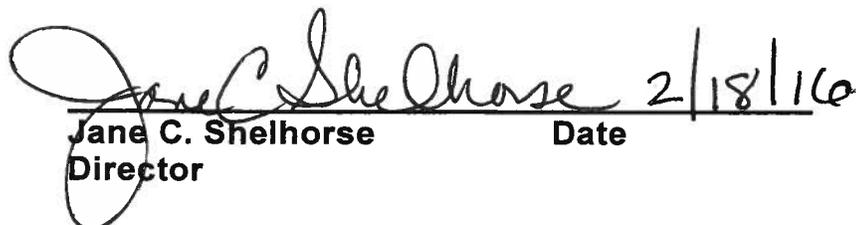
**Commissioner Foster** agrees with Commissioner Kroko on his concerns with tree planting.

**Commissioner Duffy** stated that he spoke to one of the representatives that addressed the Commissioners several months ago in reference to having indoor courts for winter pickleball. She asked if anything had come up about using a facility at the University of Mary Washington. Commissioner Duffy spoke to Ken Tyler from the University of Mary Washington, and he is anxious to talk to Director Shelhorse in reference to assisting with winter pickleball.

**Director Shelhorse** asked the Commissioners if they would like to change the monthly meeting time. After a discussion with the Commissioners it was agreed to move the Commission Meeting time to 6:30 p.m.

***A motion was made by Commissioner Gordon, seconded by Commissioner Duffy, approved by Commissioners Tyler, Null, Kroko, Foster and McVade to move the Recreation Commission monthly meeting time to 6:30 p.m. Commissioner Tepaske abstained.***

Director Shelhorse stated that staff has asked her about scheduling a retreat with staff and the Commissioners to discuss our vision and goals for the Parks and Recreation Department. The Commissioners agreed that they would like to meet with staff to discuss the future of Parks, Recreation and Public Facilities. Director Shelhorse asked for the Commissioners guidance in scheduling a day, an evening or a Saturday. The Commissioners agreed to have a three to four hour time limit ending with having lunch on a Saturday. The Commissioners asked Director Shelhorse to talk to staff to see what would be good with them. Commissioner Duffy asked if a "meet and greet" has been scheduled for the new Director. Director Shelhorse stated she would look at scheduling a "meet and greet" for herself.

 2/18/16  
Jane C. Shelhorse                      Date  
Director

**Next Regular Meeting February 18, 2016 6:30 p.m.  
at Maury Commons, Suite 111.**





CITY OF FREDERICKSBURG, VIRGINIA  
CITY COUNCIL  
**MINUTES**  
Council Chambers, 715 Princess Anne Street  
Fredericksburg, Virginia 22401

**ITEM #9A**

HON. MARY KATHERINE GREENLAW, MAYOR  
HON. WILLIAM C. WITHERS, JR., VICE -MAYOR, WARD TWO  
HON. KERRY P. DEVINE, AT-LARGE  
HON. MATTHEW J. KELLY, AT-LARGE  
HON. BRADFORD C. ELLIS, WARD ONE  
HON. DR. TIMOTHY P. DUFFY, WARD THREE  
HON. CHARLIE L. FRYE, JR., WARD FOUR

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**Council Work Session  
February 23, 2016**

**Historic Structures Report  
Animal Control Ordinance  
Closed Session**

**Discussion and Consideration of Candidates for the City Manager Position**

**The Council** of the City of Fredericksburg, Virginia held a work session on Tuesday, February 17, 2016, beginning at 5:30 p.m. in City Hall Conference Room.

**Council Present.** Mayor Mary Katherine Greenlaw, Presiding. Councilors William C. Withers, Jr., Kerry P. Devine, Timothy P. Duffy, Bradford C. Ellis (5:38), Charlie L. Frye, Jr. and Matthew J. Kelly.

**Also Present.** City Manager Beverly Cameron, Assistant City Manager Mark Whitley, City Attorney Kathleen Dooley, Assistant City Attorney Robert Eckstrom, Police Chief David Nye, Captain Brian Layton, Planning and Building Services Director Charles Johnston and Clerk of Council Tonya B. Lacey

**Others Present.** Captain Tiddings with Spotsylvania County Sheriff's office and Architect Dr. Bryan Green from Commonwealth Architects.

**Historic Structures Report.** Dr. Green presented a PowerPoint presentation covering the Renwick Courthouse, the Wallace Library and the Old Jail. In the presentation he discussed what is a Historic Structure Report, he showed comparison of each of the buildings and gave timelines of each and discussed what transpired in each of the buildings, he covered issues each of the facilities were facing and the potential opportunities of the buildings and finally he showed a sample of the final report. He also briefly discussed the survey that could be found on the City's website.

Dr. Green noted there were not any floor issues in the Renwick building because the City had always maintained the building as a public space therefore it was kept in great shape.

## **ITEM #9A**

He stated that the roof was at the end of its life and the building would perform better without the stucco texture. (See attachment for more information).

Councilor Kelly said he would like to see the building restored and used as a community space.

Mayor Greenlaw said she would like to see the building restored to its original look.

**Animal Control Ordinance.** Assistant City Attorney Eckstrom recommended Council update the City's dangerous and vicious dog ordinance to allow animal control officers to issue citations under the City Code, rather than the state law. This would allow fines under the statute to go to the City, rather than the state and it would allow the City Attorney's Office to represent the officers in civil dangerous dog cases. Mr. Eckstrom also reviewed some of the other changes to the ordinance. (See attachment for more information).

Council had a brief discussion on the enforcement of cleaning up dog feces and how a dog was labeled vicious or dangerous.

**Closed Meeting Approved.** Upon the motion of Councilor Kelly, seconded by Councilor Devine and passed by the following recorded votes, Council approved a closed session for discussion and consideration of candidates for the City Manager position, under Virginia Code §2.2-3711(A)(1). Ayes (7) Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye, and Kelly. Nays (0).

**Return to Open Meeting Approved.** Upon the motion of Councilor Kelly, seconded by Councilor Devine and passed by the following recorded votes, Council approved a return to an open meeting. Ayes (7) Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye, and Kelly. Nays (0).

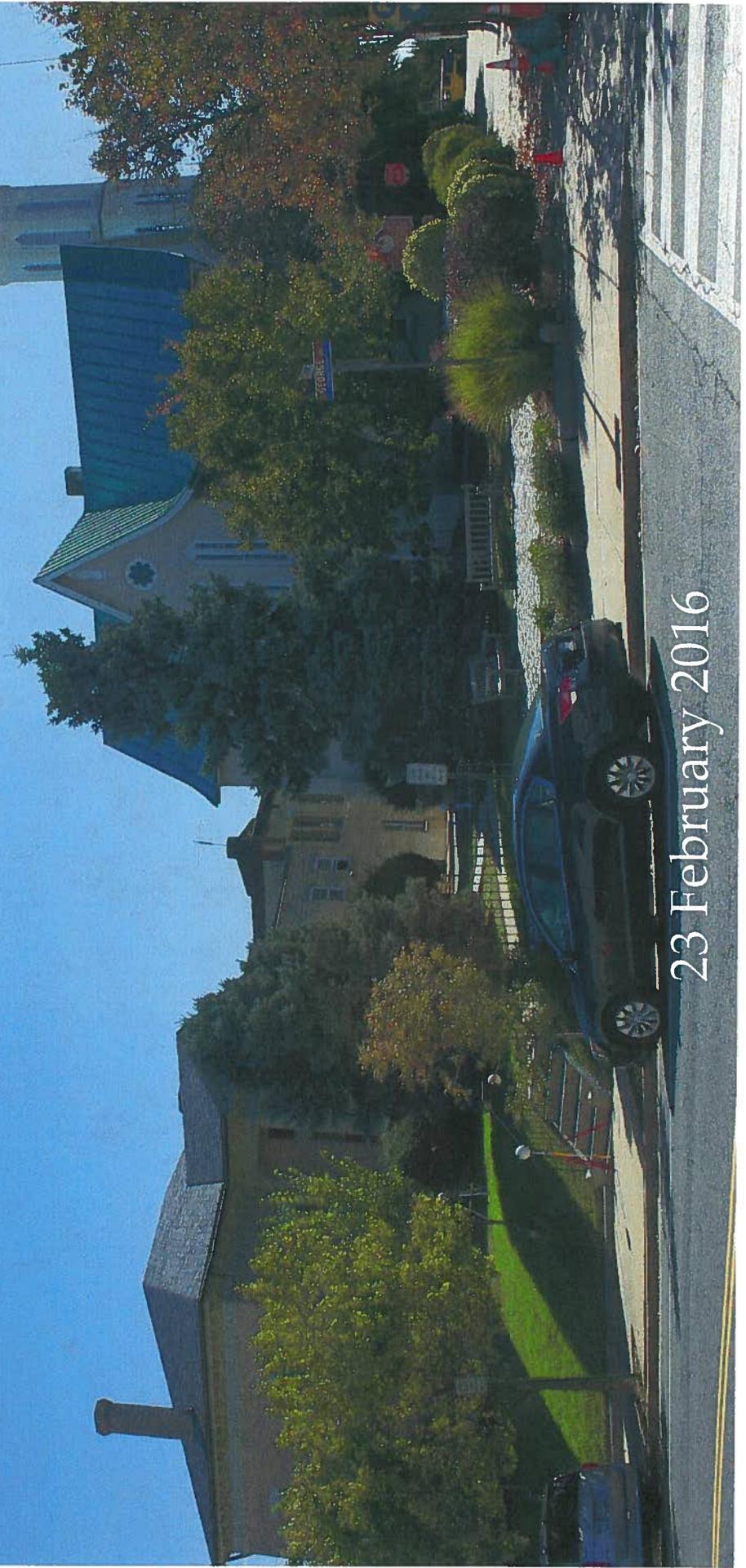
**Resolution 16-19, Approved, Certifying Closed Meeting.** Upon the motion Councilor Kelly approved Resolution 16-19 certifying the closed meeting; seconded by Councilor Devine and passed by the following recorded votes. Ayes (7) Councilors Greenlaw, Withers, Devine, Ellis, Frye, and Kelly. Nays (0).

**Adjournment.** There being no further business to come before the Council at this time. Mayor Greenlaw declared the work session officially adjourned at 7:24 p.m.

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**Tonya B. Lacey  
Clerk of Council  
City of Fredericksburg**

# Renwick Courthouse, Wallace Library, and Old Jail: An Update



23 February 2016

# Renwick Courthouse, Wallace Library, and Old Jail HSR: An Update

What is a Historic Structures Report?

What have we discovered so far?

What are the challenges and  
opportunities?  
and

What are we doing to wrap up?

# Historic Structures Reports (HSR)

A historic structures report provides documentary, graphic, and physical information about a property's history and existing condition.

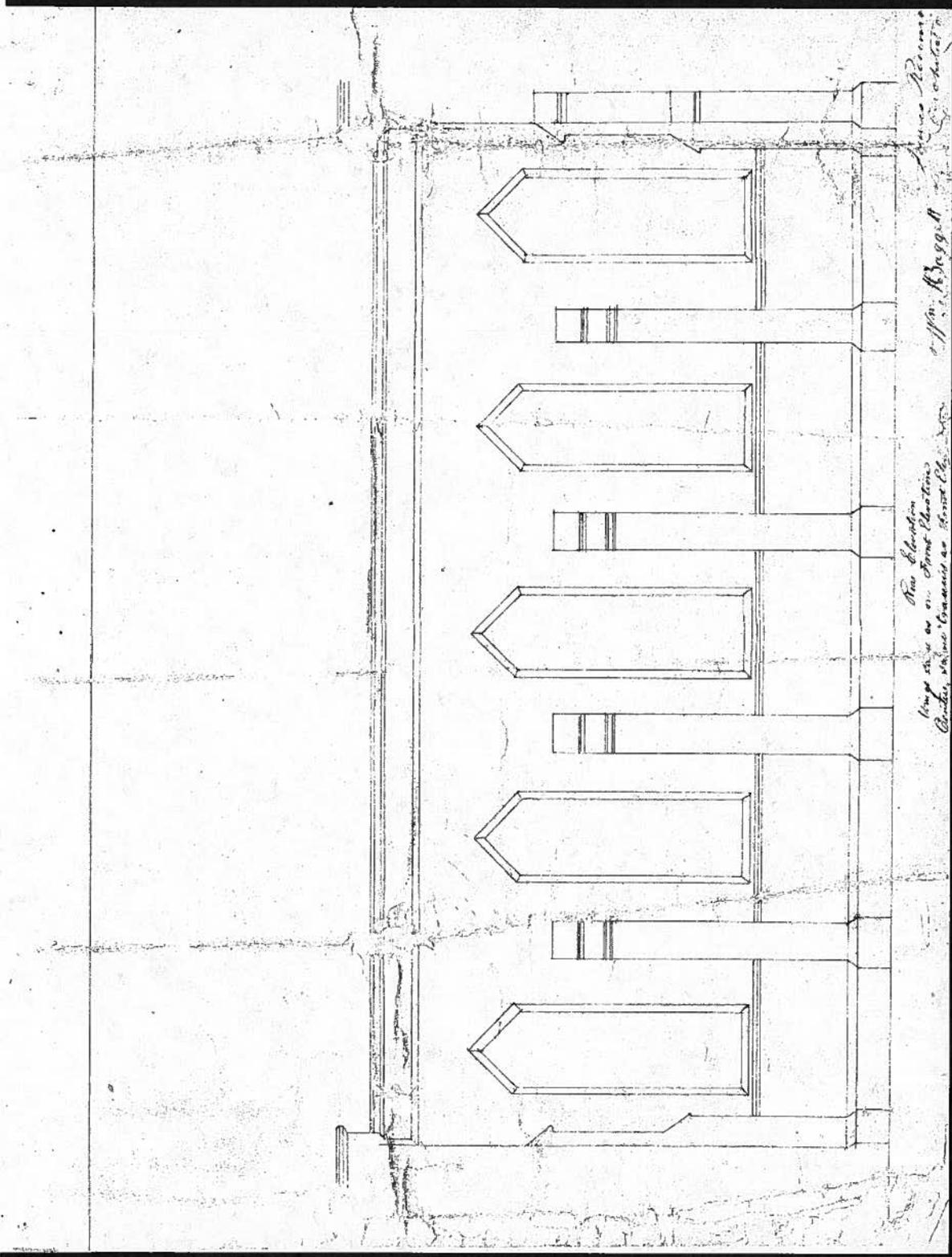
# Historic Structures Reports (HSR)

## Approach for Fredericksburg Historic Courthouse, Jail, & Library

1. Introduction
2. Brief History of the Property
3. Construction History (including alterations, repairs, and restoration)
4. Architectural Evaluation / Existing Conditions Analysis
  1. Architectural
  2. Structural
  3. Mechanical, Electrical, and Plumbing
5. Repair and Restoration Recommendations (including cost estimates)
6. Maintenance Recommendations (including cyclical maintenance and repair)
7. Drawings and Photographs
8. Recommendations for Future Research
9. Bibliography
10. Digital archive of previous reports, studies, photographs, and drawings

Renwick Courthouse, Wallace  
Library, and Old Jail HSR:  
An Update

Comparison between historic and  
present-day views

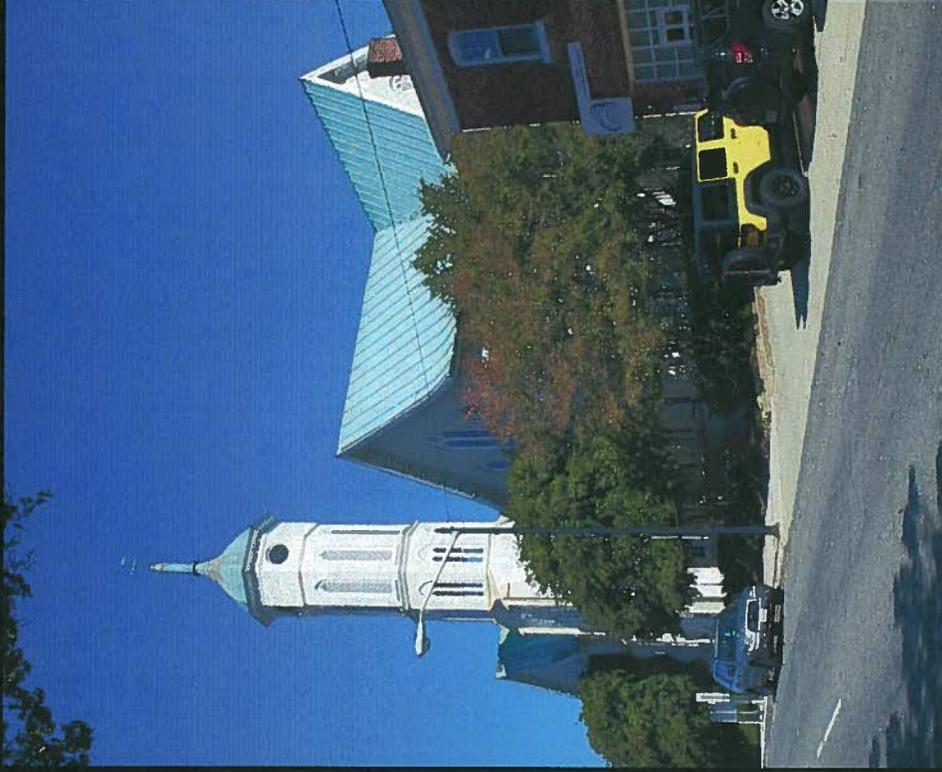


*New location  
longer and on the front elevation  
Chas. W. Renwick as Architect*

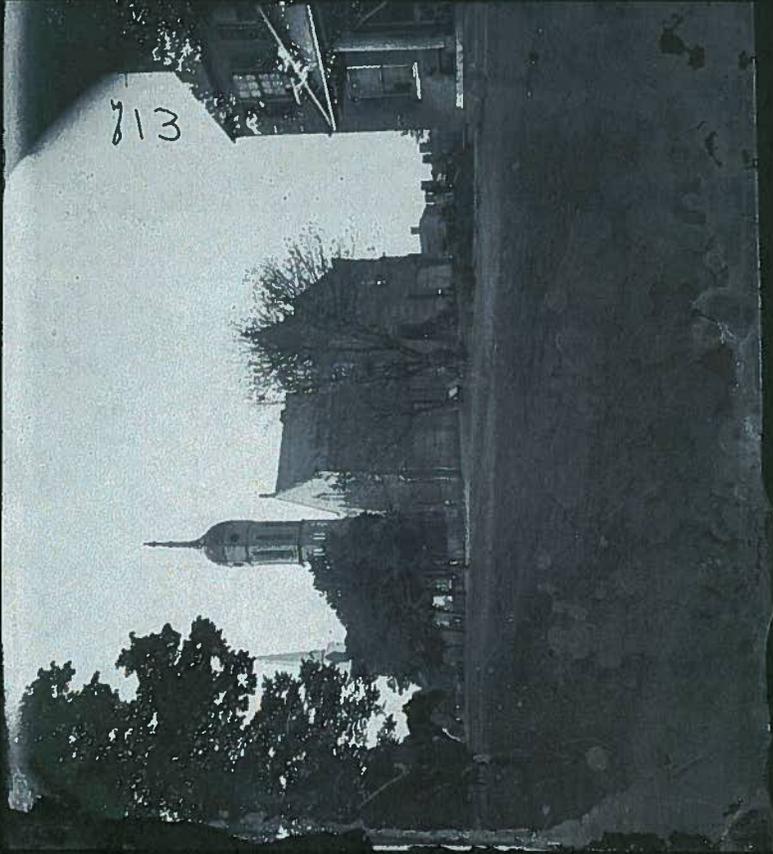
*James Renwick  
Architect*

## Renwick Courthouse

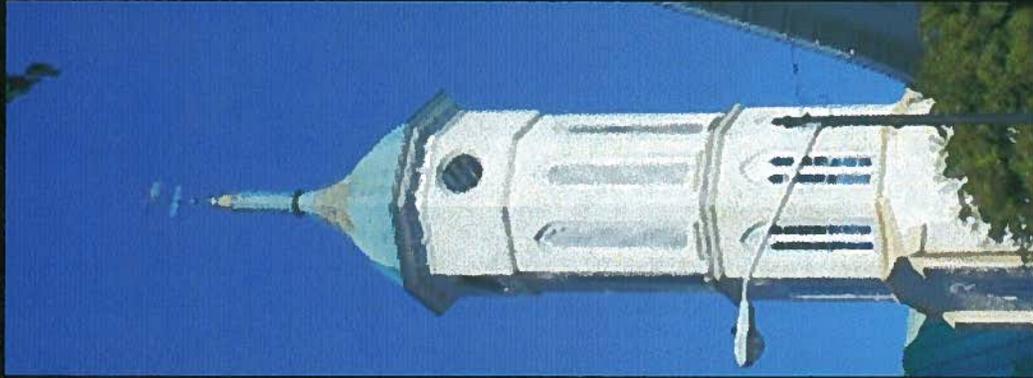
Original Architectural Drawings, James Renwick Jr.  
Fredericksburg, VA  
1852



**Renwick Courthouse**  
Fredericksburg, VA  
2015



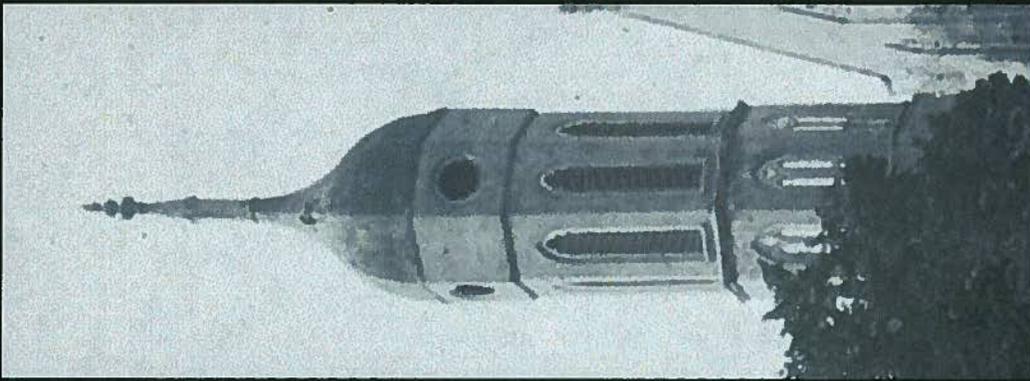
**Renwick Courthouse**  
Fredericksburg, VA  
19 May 1864



## Renwick Courthouse

Fredericksburg, VA

19 May 1864



## Renwick Courthouse

Fredericksburg, VA

2015



## Fredericksburg Historic Courthouse

Fredericksburg, VA

19 May 1864



## Fredericksburg Historic Courthouse

Fredericksburg, VA

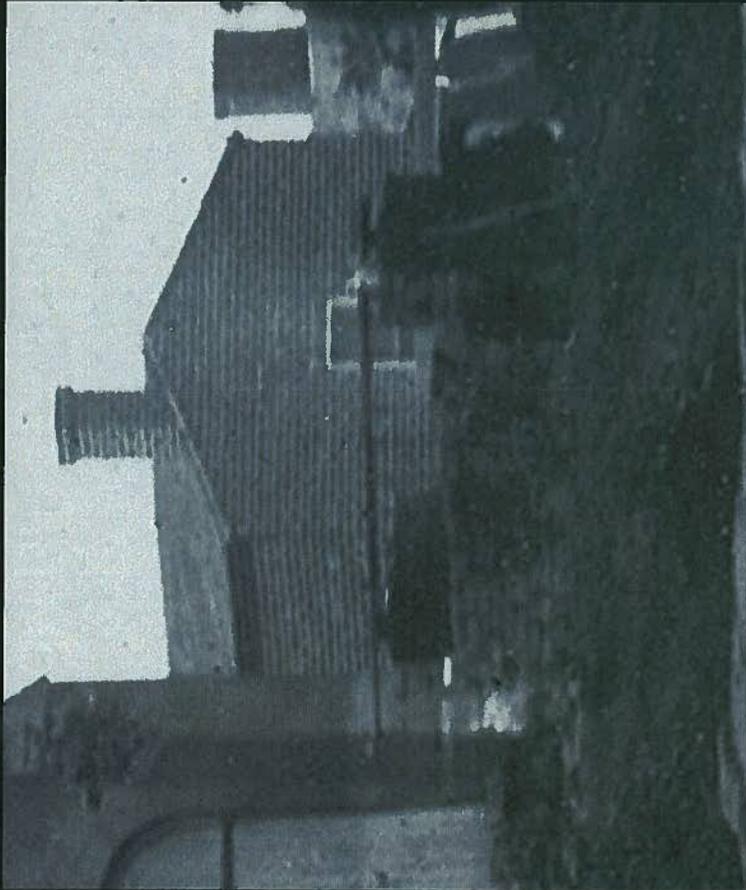
2015



**Renwick Courthouse**  
Fredericksburg, VA  
19 May 1864



**Renwick Courthouse**  
Fredericksburg, VA  
2015



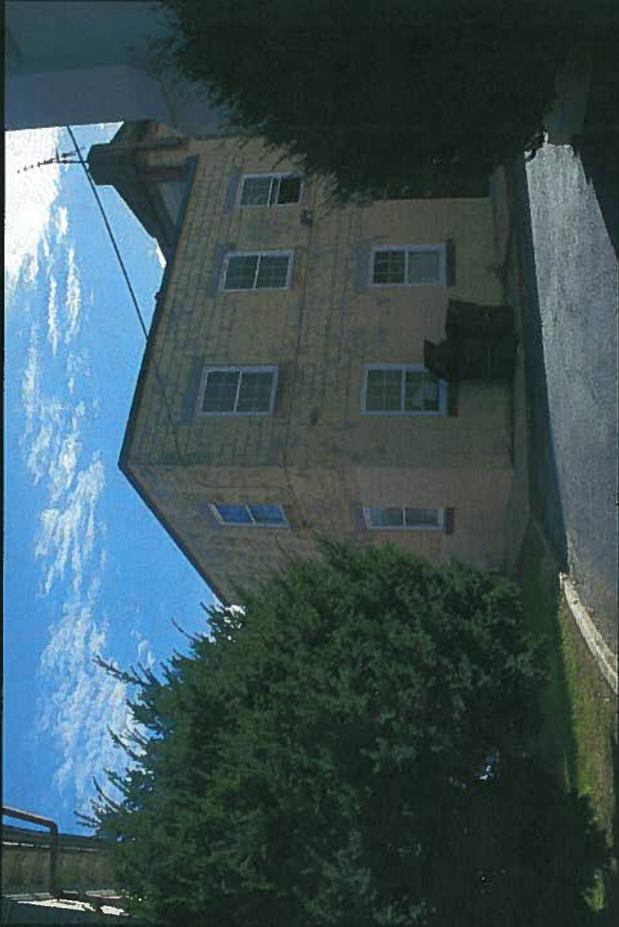
## Old Jail (second jail)

Fredericksburg, VA  
19 May 1864



## Old Jail

Fredericksburg, VA  
2015



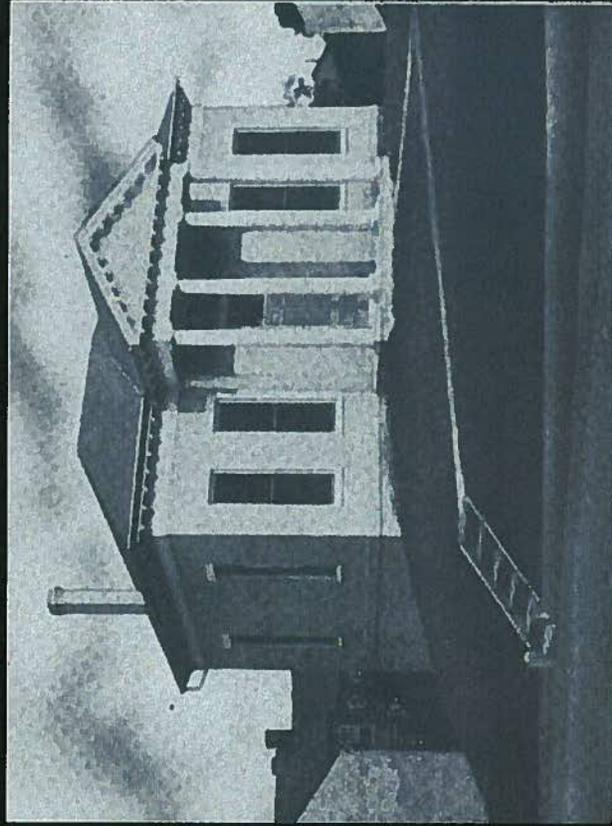
**Old Jail**  
Fredericksburg, VA  
2015



**Old Jail (second jail)**  
Fredericksburg, VA  
1918

# Old Jail Timeline

Jail Timeline	Activity
Date	Activity
1736	First documented courthouse and jail constructed (brick)
1803	Court order issued for demolition of the first jail, located north of present courthouse
1805	Construction complete on the second jail (stone), built at same location of the first jail
1852	Construction complete on the second courthouse (designed by James Renwick, Jr.)
1852	Second jail dismantled and re-built at the rear of the second courthouse (approximately the current location)
1928	The second jail is rebuilt at its existing site using poured in place concrete
Ca. 1970s	The jail and police department is vacated



**Wallace Library**  
Fredericksburg, VA  
Ca. 1908



**Wallace Library**  
Fredericksburg, VA  
2015

# Wallace Library Timeline

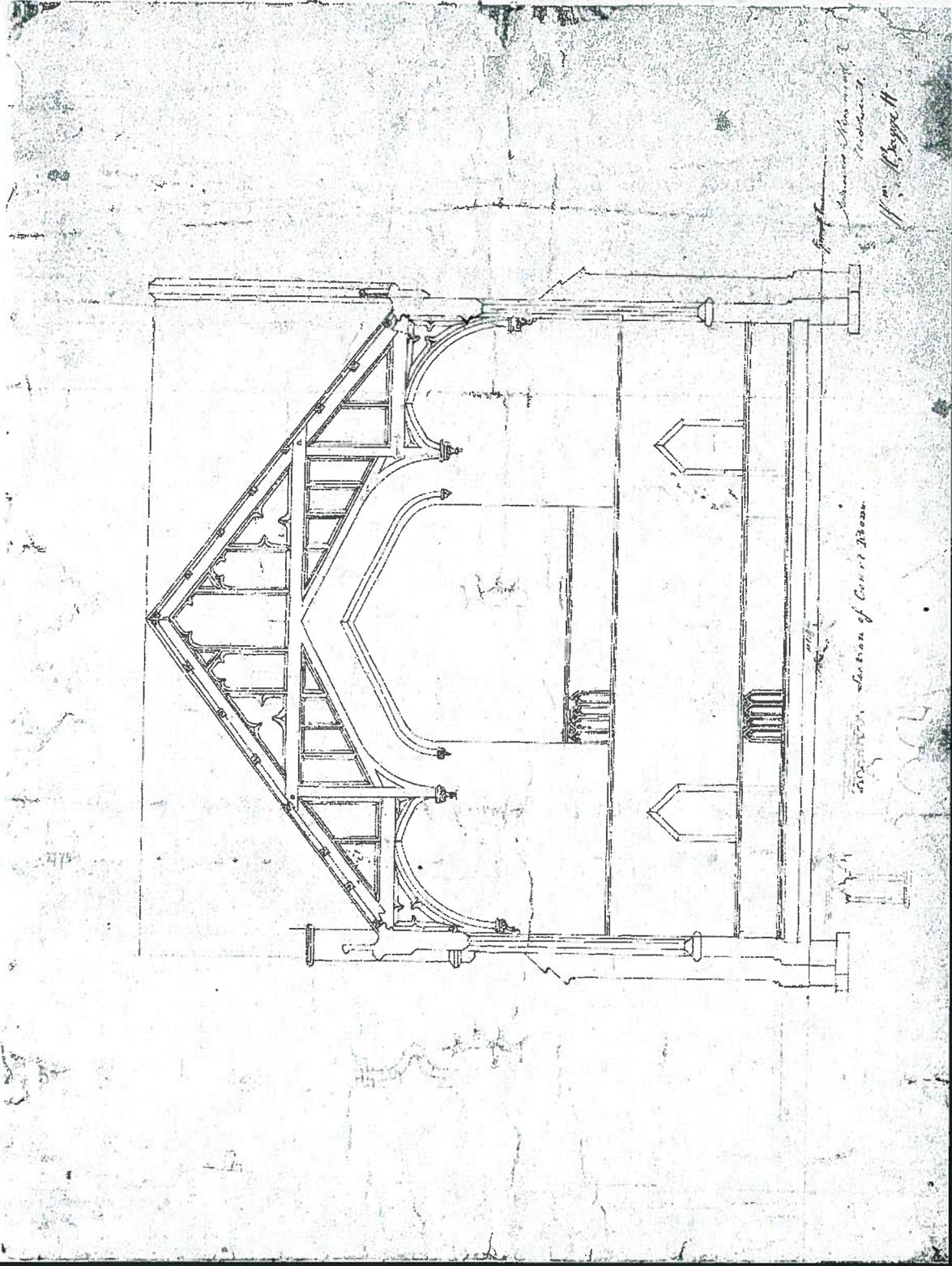
Wallace Library Timeline	Activity
Date	
1909	Wallace Library Constructed
1970s	Renovation into Fredericksburg School Board Office
ca. 2017	School Board to vacate

# Renwick Courthouse, Wallace Library, and Old Jail HSR: An Update

How was the courthouse used?

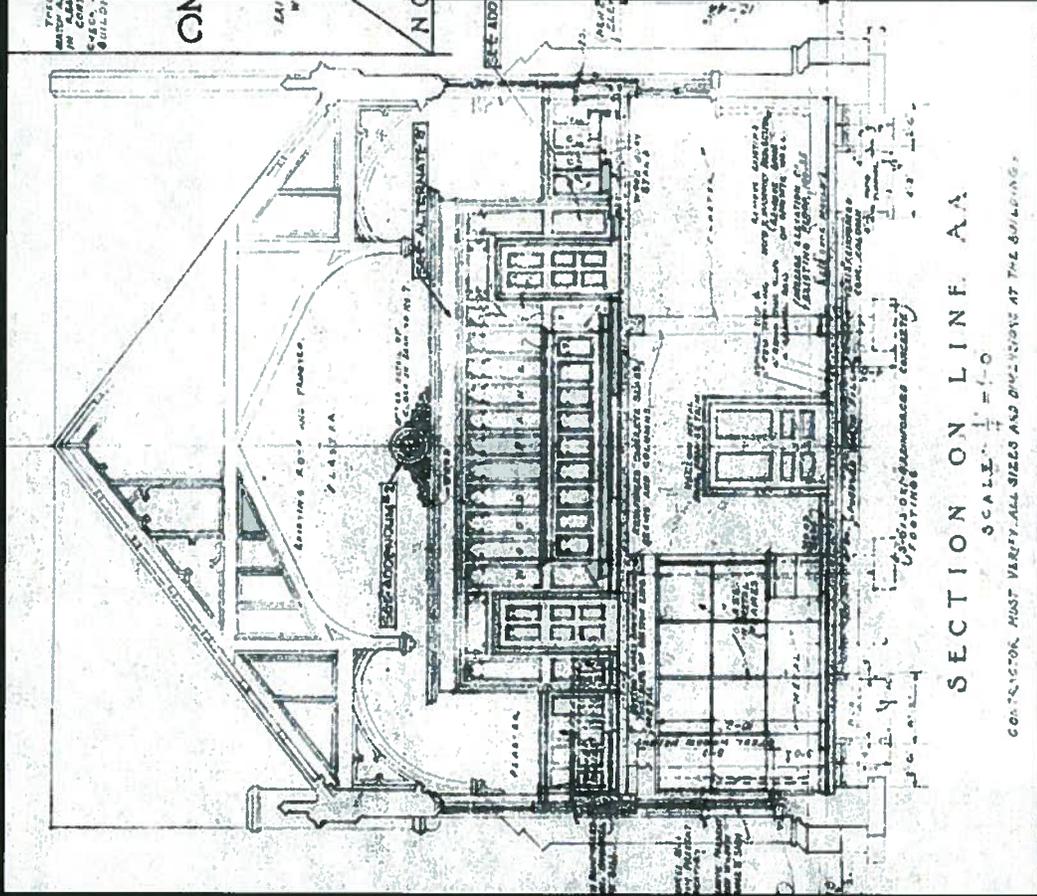
# Renwick Courthouse Timeline

Date	South Wing	Central Portion	North Wing
1852 – ca. 1860		Court Room	Hope Fire Company
1886	Clerk's Office	Court Room	1 <sup>st</sup> Floor: School 2 <sup>nd</sup> Floor: School
1891	Clerk's Office	Court Room	1 <sup>st</sup> Floor: School 2 <sup>nd</sup> Floor: Armory
1896	Clerk's Office	Court Room	1 <sup>st</sup> Floor: School 2 <sup>nd</sup> Floor: Armory
1902	1 <sup>st</sup> Floor: Clerk's Office, Fire Proof Vault 2 <sup>nd</sup> Floor: Library	Court Room	1 <sup>st</sup> Floor: School 2 <sup>nd</sup> Floor: Armory
1907	1 <sup>st</sup> Floor: Clerk's Office, Fire Proof Vault 2 <sup>nd</sup> Floor: Library	Court Room	1 <sup>st</sup> Floor: School 2 <sup>nd</sup> Floor: Armory
1912	1 <sup>st</sup> Floor: Clerk's Office 2 <sup>nd</sup> Floor: Library	Court Room	No use listed
1919	1 <sup>st</sup> Floor: Clerk's Office 2 <sup>nd</sup> Floor: Library	Court Room	No use listed
1927	Corporation Court House	Corporation Court House	
1948	Second floor added to courtroom		
1948	1 <sup>st</sup> Floor: Offices 2 <sup>nd</sup> Floor: Jury Room, Witness Room, Judge's Office, Clerk's Office	1 <sup>st</sup> Floor: Record Storage 2 <sup>nd</sup> Floor: Court Room	1 <sup>st</sup> Floor: Stair Hall, "To Remain as Present" 2 <sup>nd</sup> Floor: Unassigned, Law Library, Court Lobby
1990	1 <sup>st</sup> Floor: Judge's Chambers, Secretary, Conference Room, Vault 2 <sup>nd</sup> Floor: Jury, Judge's Chambers, Cloak Room, Holding Cells	1 <sup>st</sup> Floor: Record Storage 2 <sup>nd</sup> Floor: Court Room	1 <sup>st</sup> Floor: Clerk, Evidence, Microfilm, Mechanical, Conference 2 <sup>nd</sup> Floor: Public Restrooms, Witness, Court Waiting Room, Attorney/Client Chambers



## Renwick Courthouse

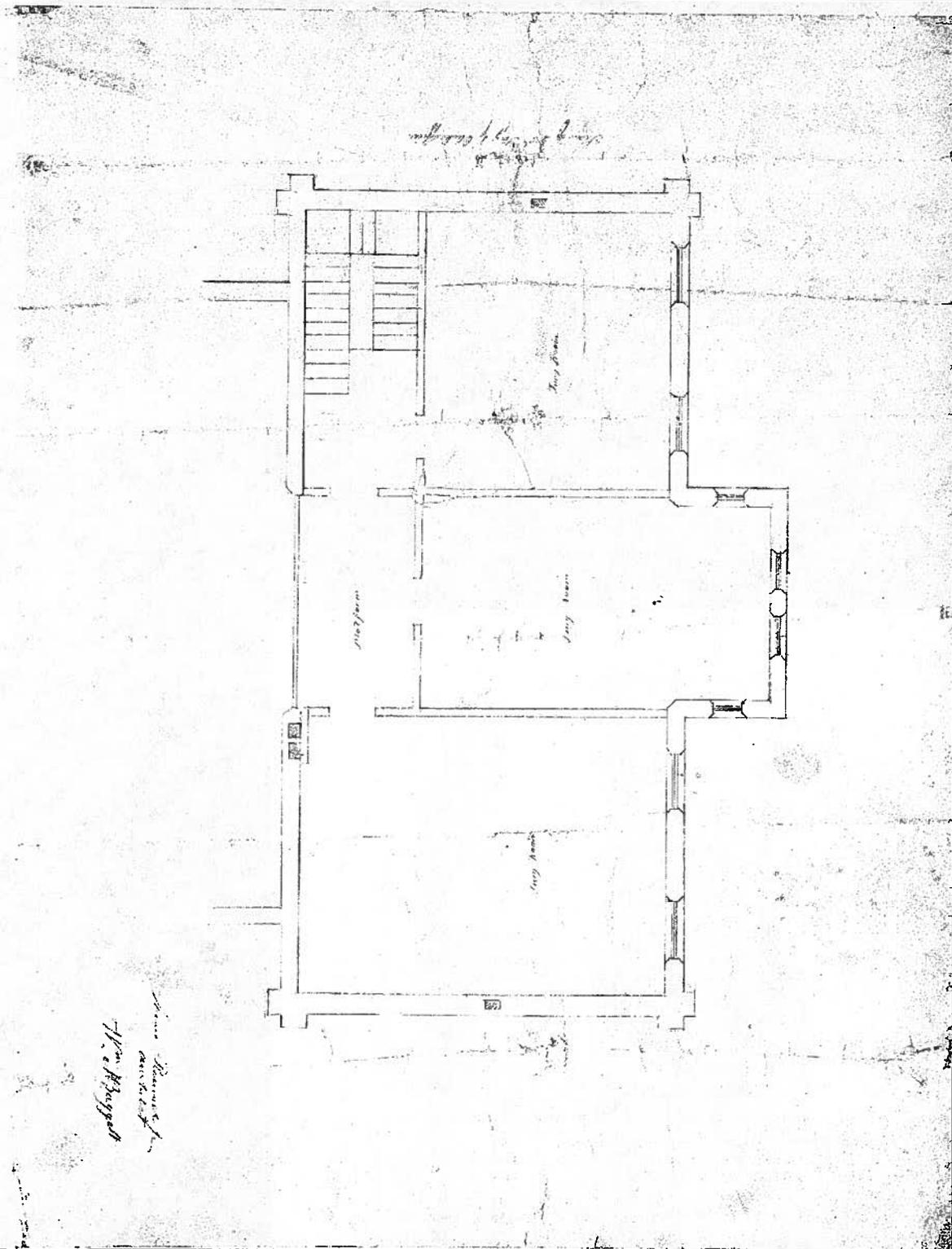
Original Architectural Drawings, James Renwick Jr.  
Fredericksburg, VA  
1852



**Renwick Courthouse**  
 Fredericksburg, VA  
 1948



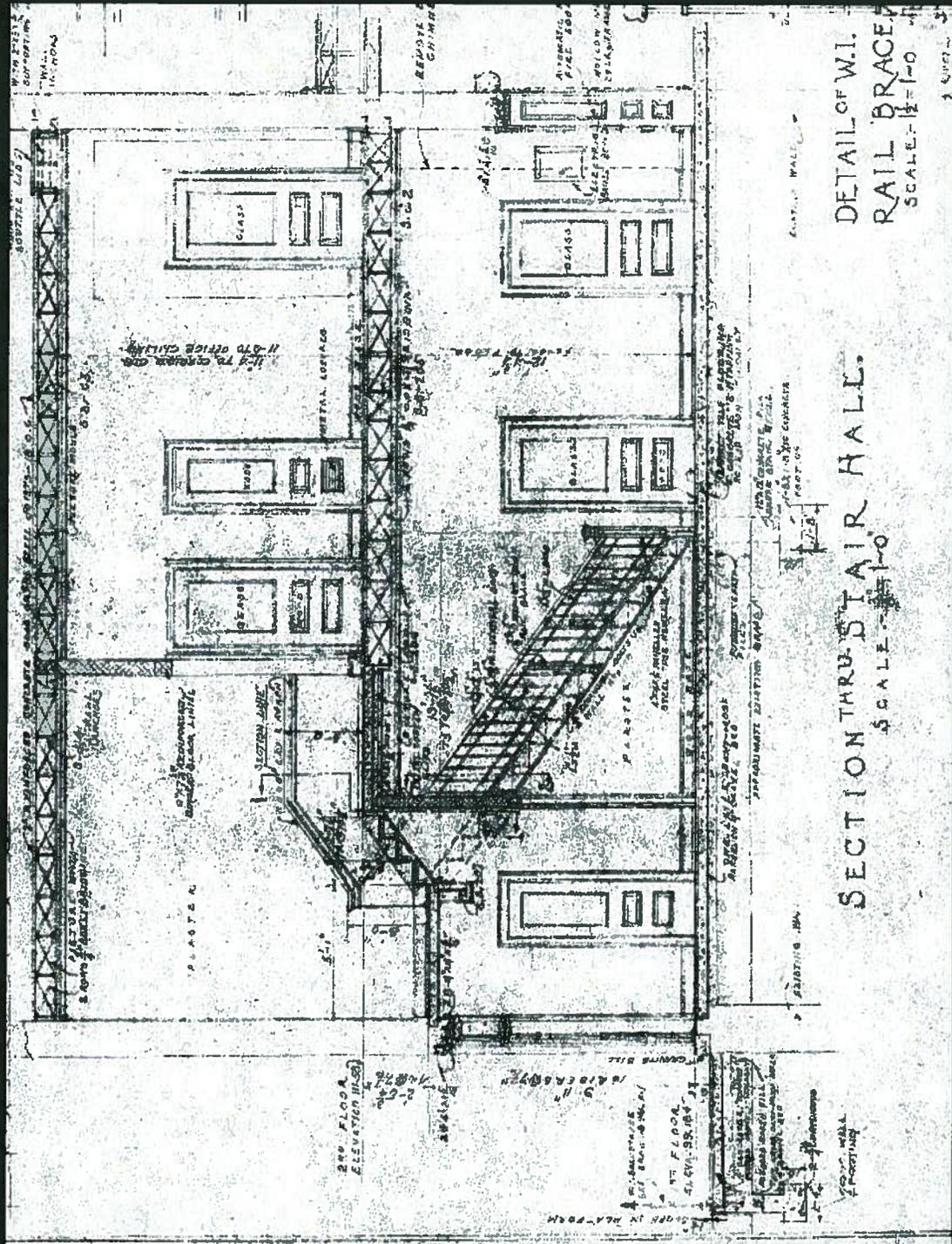
**Renwick Courthouse**  
 Fredericksburg, VA  
 2015



**Renwick Courthouse**  
Original Architectural Drawings, James Renwick Jr. (North wing)  
Fredericksburg, VA  
1852



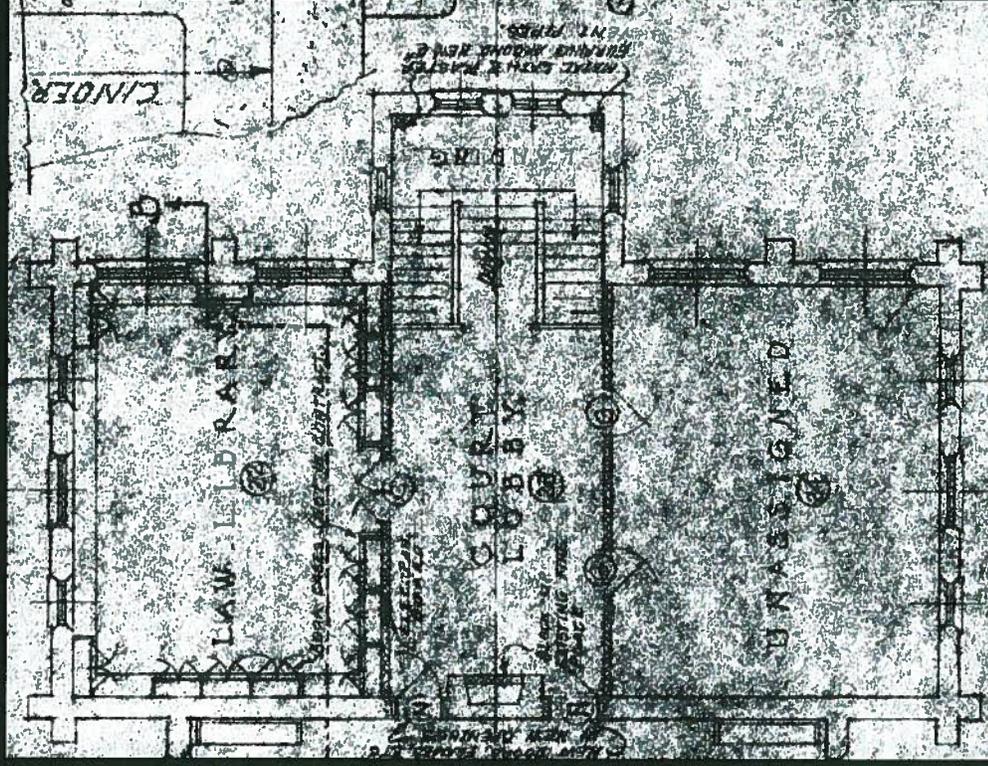
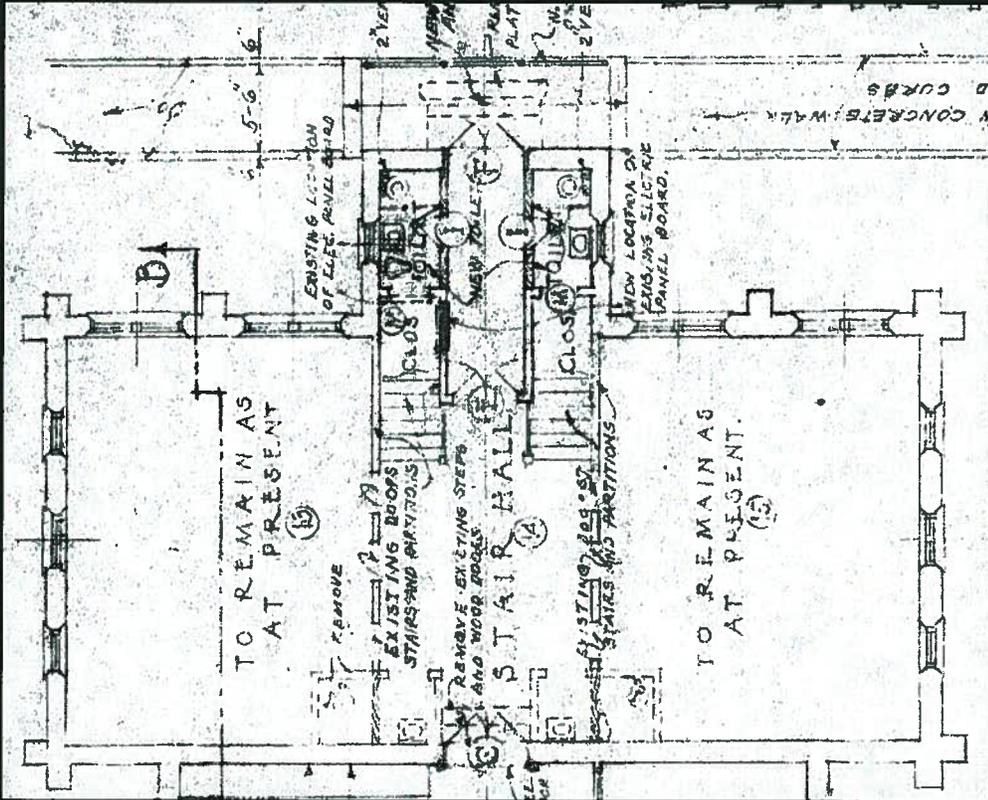




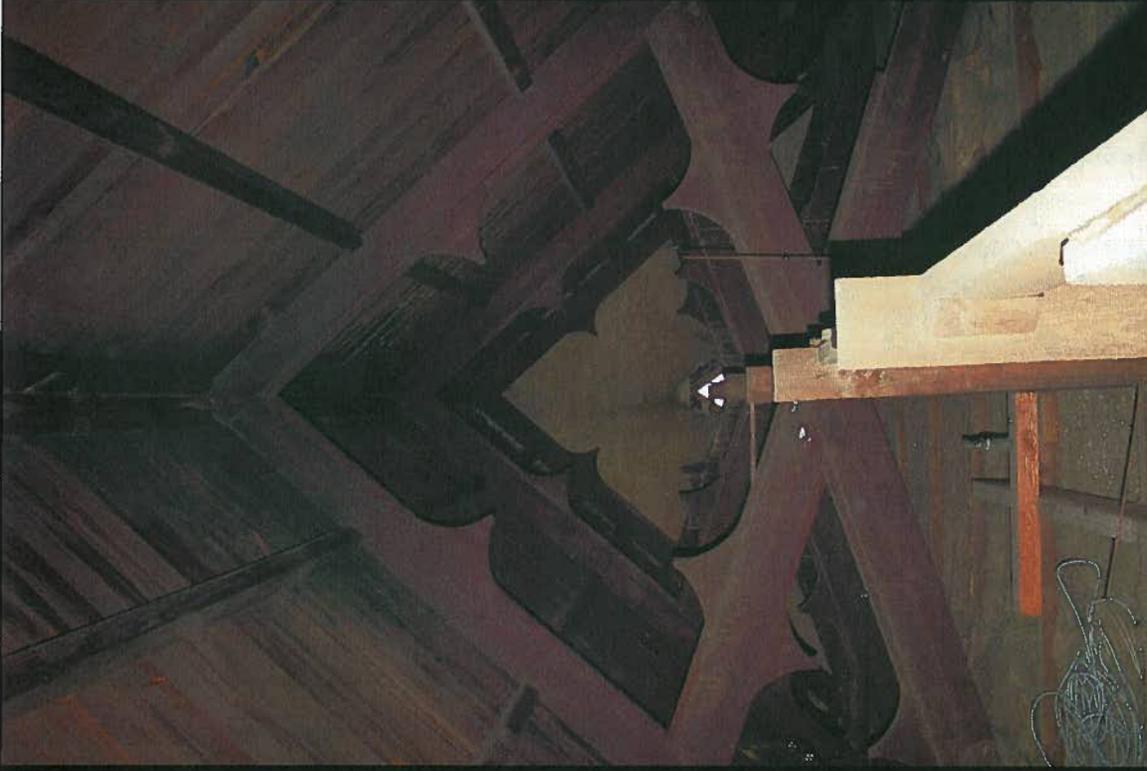
**Renwick Courthouse**  
 Fredericksburg, VA  
 Section through 1948 Stair  
 1948



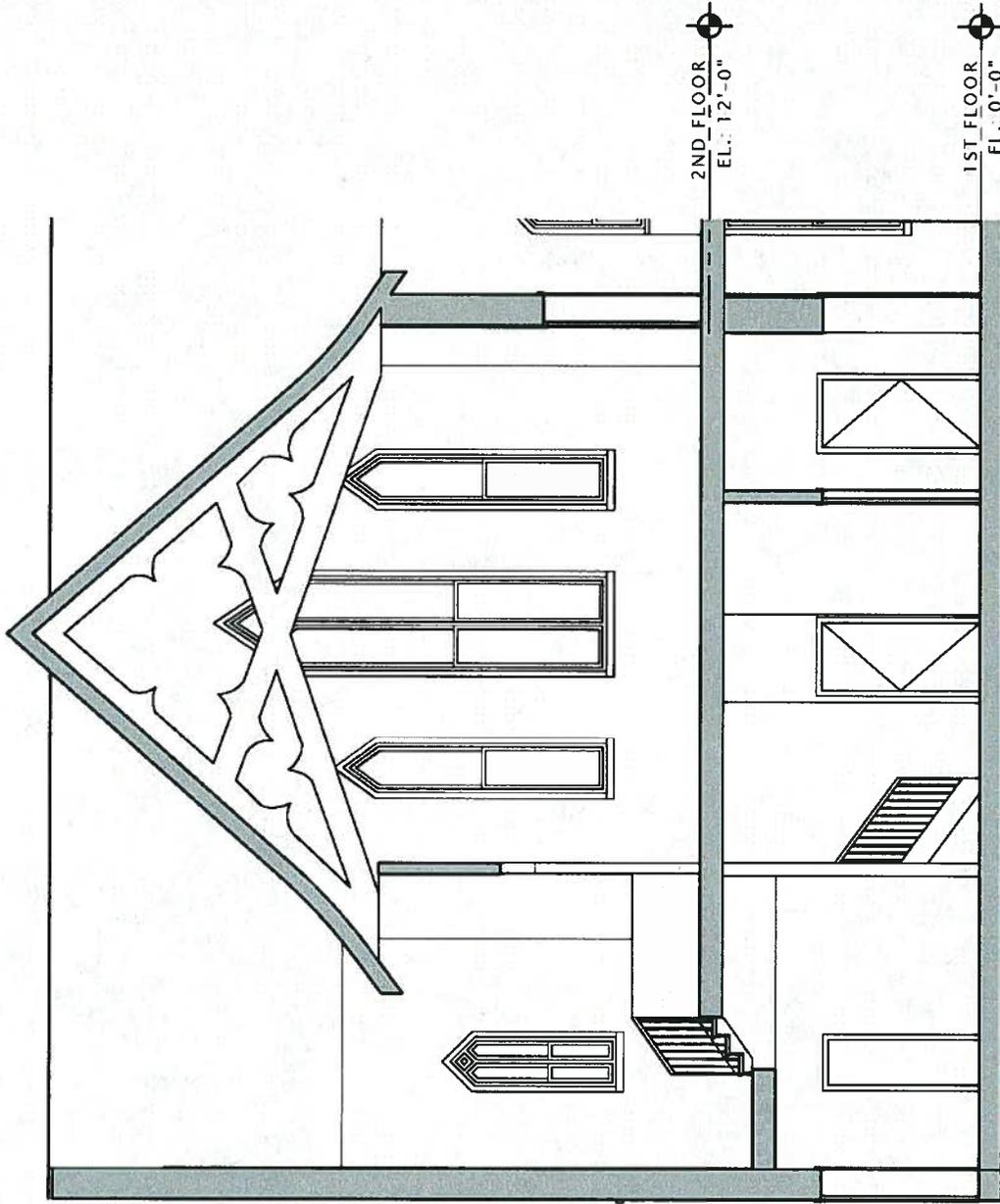
**Renwick Courthouse**  
Fredericksburg, VA  
North Attic King Post Detail  
2015



**Renwick Courthouse**  
 Fredericksburg, VA  
 South Wing  
 1948



**Renwick Courthouse**  
Fredericksburg, VA  
South Attic Scissor Truss Detail  
2015



**Opportunity:** Revealing the two-story south wing space and the scissor trusses

Renwick Courthouse

Fredericksburg, VA

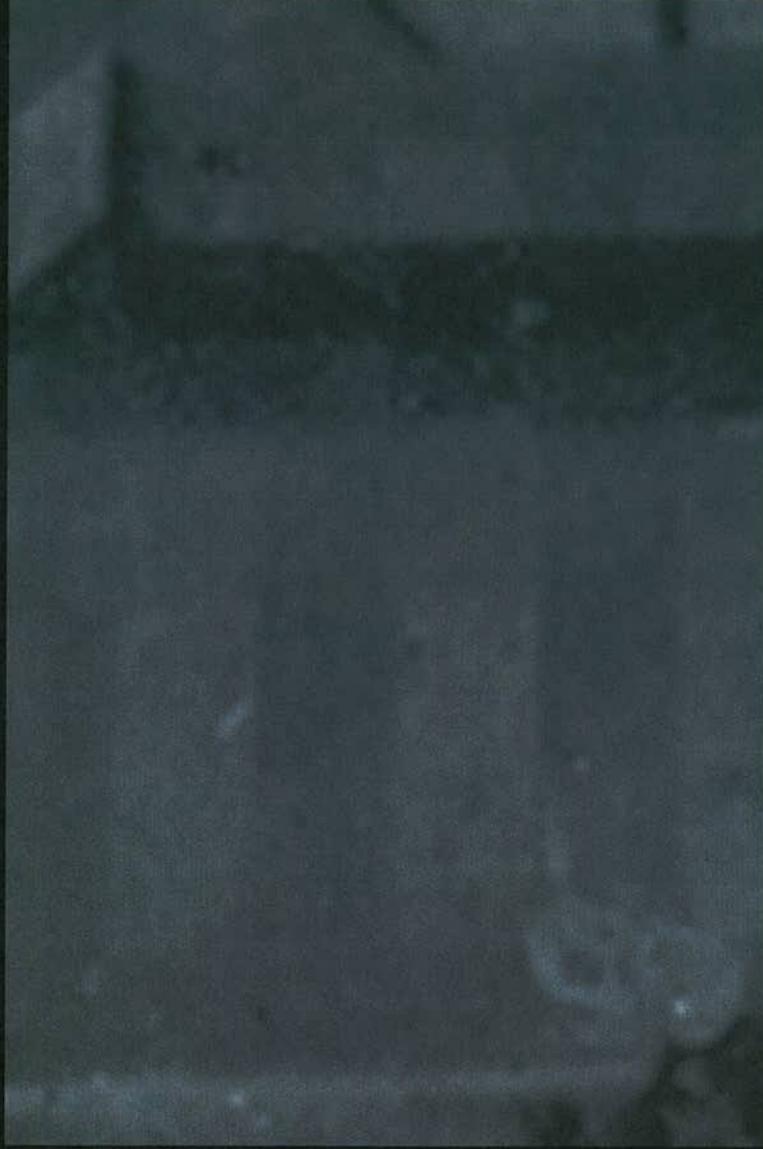
2015



## Renwick Courthouse

Fredericksburg, VA

simulated stone finish, west gable wall south attic  
2015



**Renwick Courthouse**  
Fredericksburg, VA  
simulated stone finish, south elevation  
19 May 1864

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

## Issues at the Courthouse:

- Moisture infiltration through the hairline cracks in the Portland-cement textured stucco
- Damage and stress of structural members
- Moisture infiltration in the bell tower

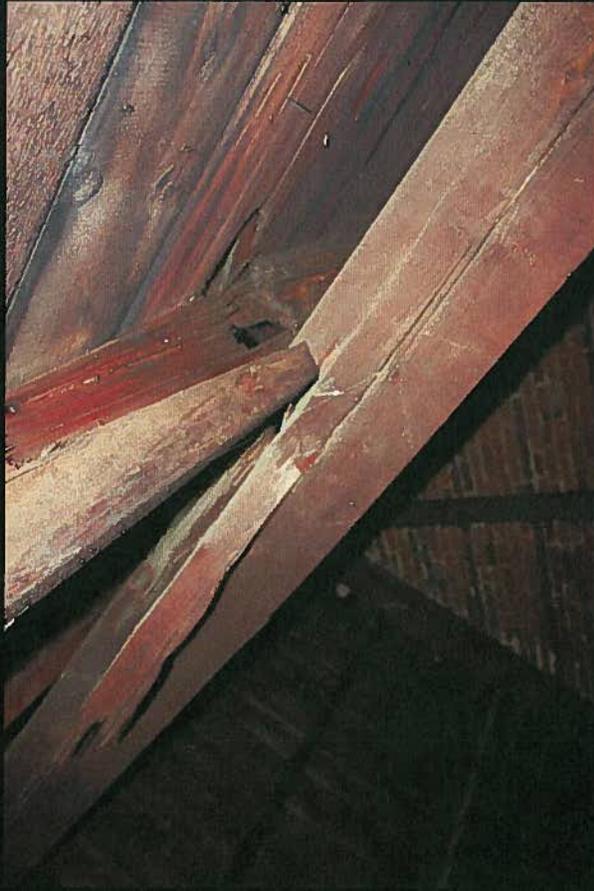


Issue: Moisture infiltration through the hairline cracks in the Portland-cement stucco

Renwick Courthouse

Fredericksburg, VA

2015



North Attic



South Attic

## Issue: Damage and stress of structural members

Renwick Courthouse

Fredericksburg, VA

2015



**Issue: Moisture infiltration in the bell tower**

Renwick Courthouse

Fredericksburg, VA

2015

# Renwick Courthouse, Wallace Library, and Old Jail HSR: Opportunities at the Courthouse:

- Removal of the non-historic Portland-cement textured stucco and reinstatement of a compatible exterior stucco
- Reinstatement of the parapet walls
- Revealing the two-story south wing space and the scissor trusses



## Opportunity: Reinstatement of a Historically Compatible Exterior Finish

Renwick Courthouse

Fredericksburg, VA

(surviving example in the south wing attic, 2015)

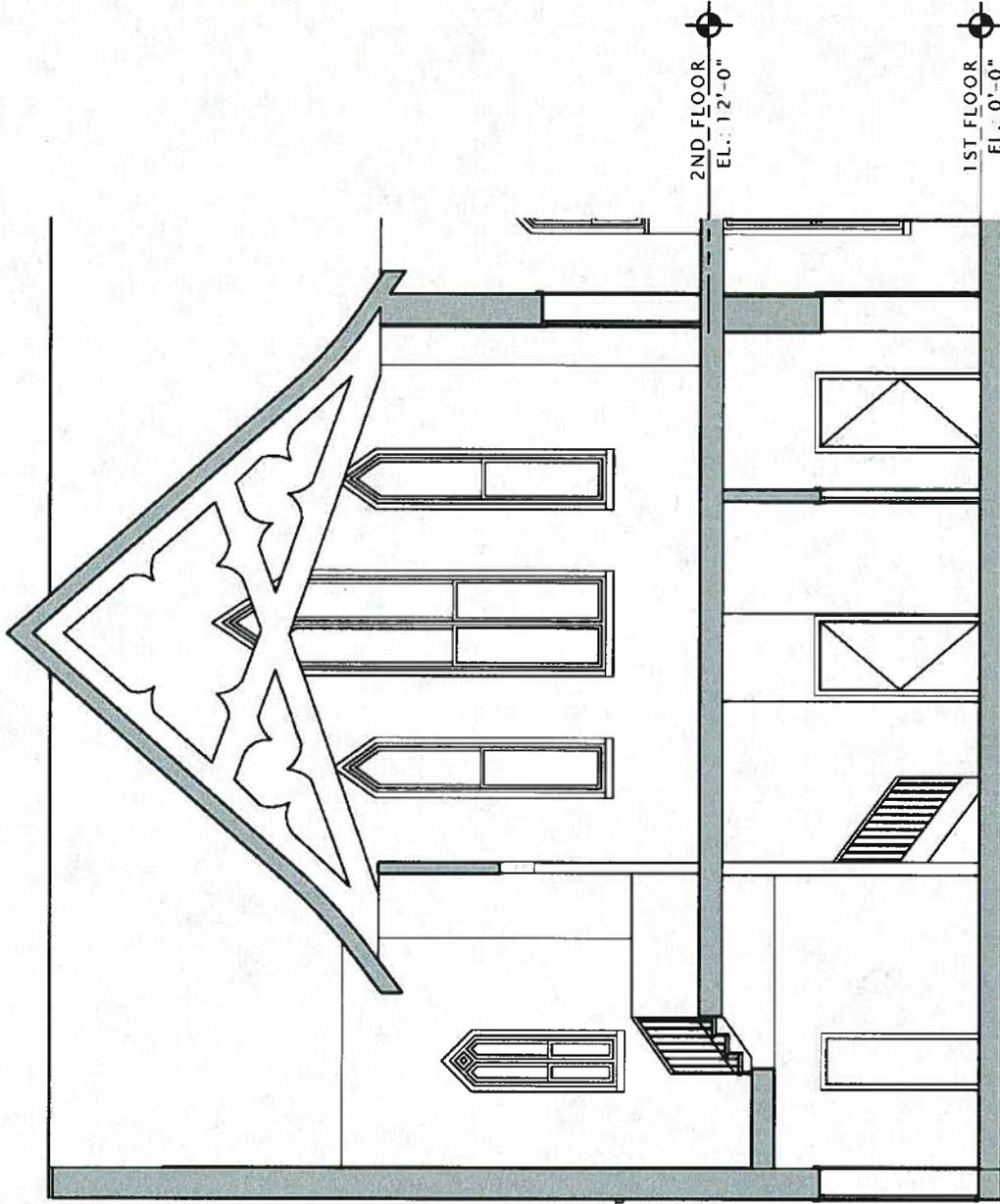


## Opportunity: Reinstatement of the parapet walls

Renwick Courthouse

Fredericksburg, VA

2015



**Opportunity:** Revealing the two-story south wing space and the scissor trusses  
Renwick Courthouse  
Fredericksburg, VA  
2015

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

Issues at the Wallace Library:

- Loss of mortar
- Moisture infiltration
- Shifting and cracking of the brick at the north elevation

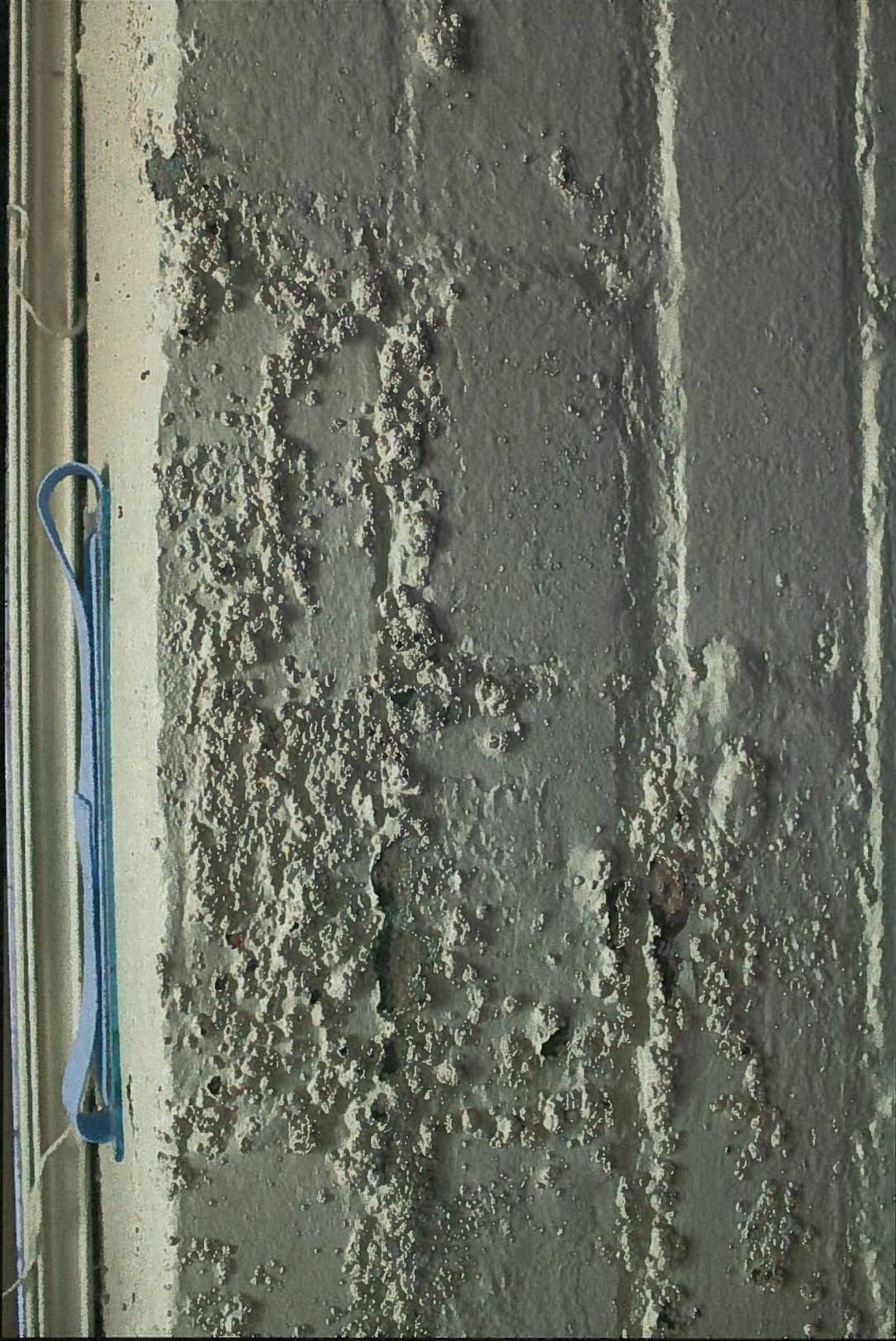


Issue: Loss of mortar

**Wallace Library**

Fredericksburg, VA

2015



Issue: Moisture Infiltration

**Wallace Library**

Fredericksburg, VA

2015



Issue: Shifting and cracking of brick at the north elevation

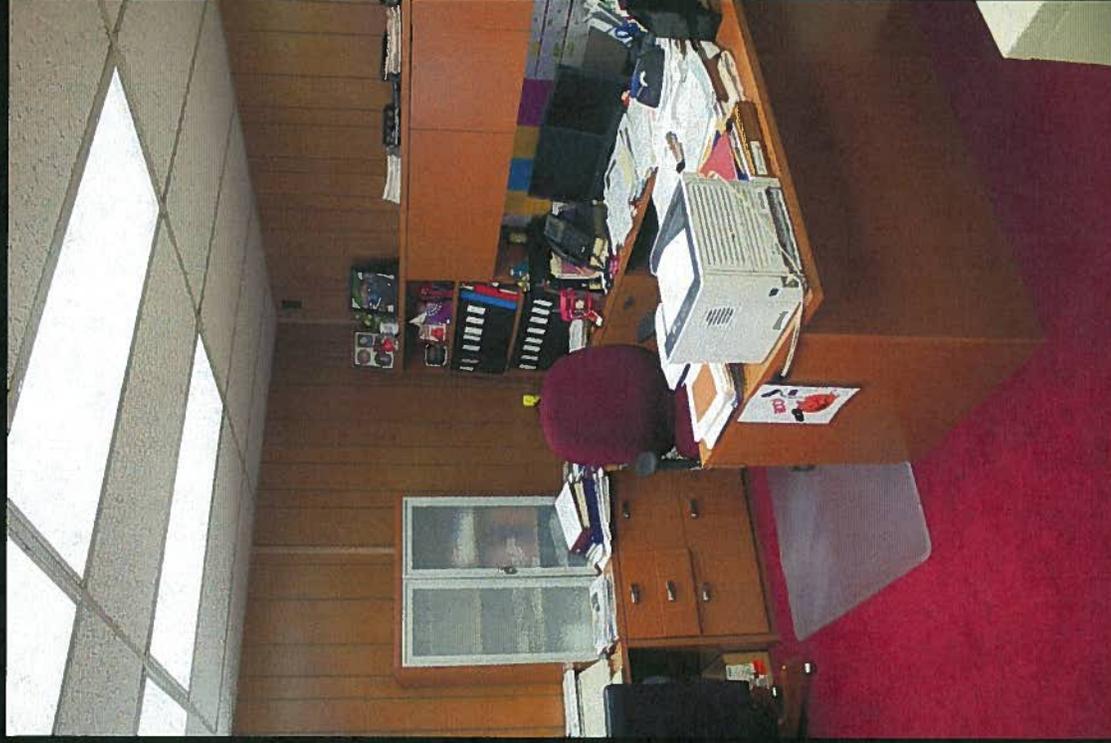
**Wallace Library**

Fredericksburg, VA

2015

# Renwick Courthouse, Wallace Library, and Old Jail HSR: Opportunities at the Wallace Library:

- The interior historic fabric is almost non-existent, which equates to flexibility of use and finishes
- Exterior integrity and historic fabric of the building is intact
- Reinstatement of the original two-story volume through the removal of the non-historic second floor



Opportunity: The interior historic fabric is almost non-existent, which equates to flexibility of use and finishes

Wallace Library  
Fredericksburg, VA  
2015



Opportunity: Exterior integrity and historic fabric of the building is intact

Wallace Library  
Fredericksburg, VA  
2015



Opportunity: Reinstatement of the original two-story volume through the removal of  
the non-historic second floor

## Wallace Library

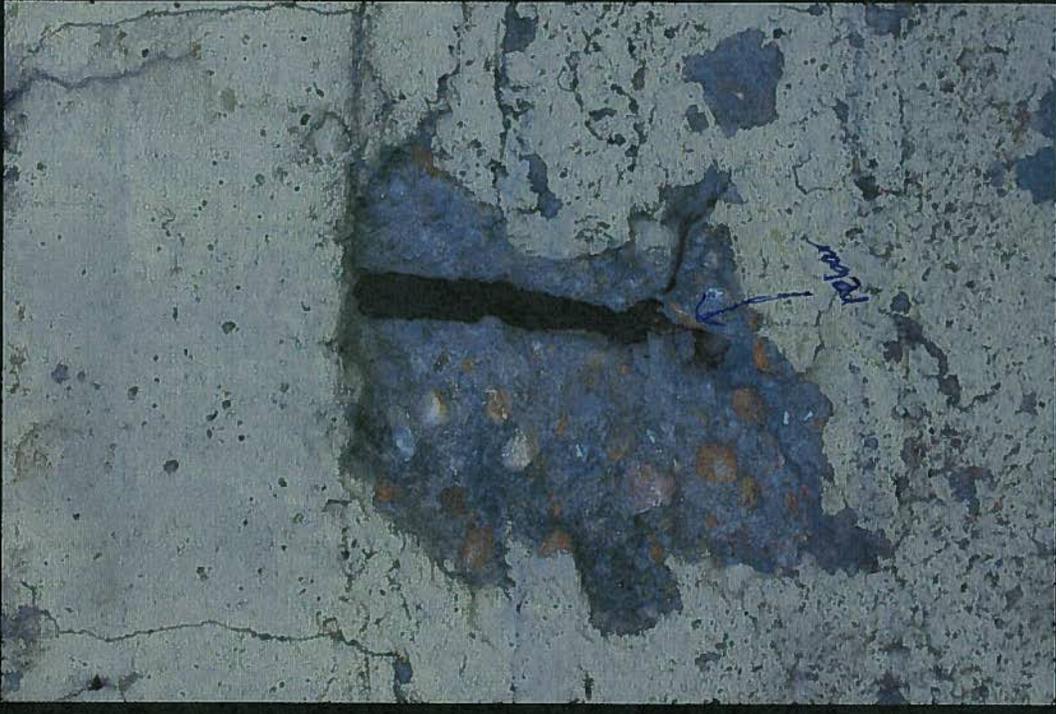
Fredericksburg, VA

2015

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

## Issues at the Old Jail

- Spalling and cracking of the exterior concrete walls
- Lack of functional windows
- The roof is nearing the end of its lifespan



Issue: Spalling and cracking of the exterior concrete walls

### Old Jail

Fredericksburg, VA

2015



Issue: Lack of functional windows

## Old Jail

Fredericksburg, VA

2015



Issue: The roof is nearing the end of its lifespan

## Old Jail

Fredericksburg, VA

2015

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

## Opportunities at the Jail:

- Ability to visualize the layers of the jail's history, early stone, brick, and the existing concrete jail
- Two historic jail cells remain and should be preserved
- Potential flexibility in build-out of the CMU portion of the building



Opportunity: Ability to visualize the layers of the jail's history: early stone, brick, and the existing concrete jail

## Old Jail

Fredericksburg, VA  
2015



Opportunity: Two historic jail cells remain and should be preserved

## Old Jail

Fredericksburg, VA

2015



Opportunity: Potential flexibility in build out of the CMU portion of the building

## Old Jail

Fredericksburg, VA  
2015

Renwick Courthouse, Wallace  
Library, and Old Jail HSR:  
An Update

What does the report look like?

## Old Wallace Library Exterior Description

### West Elevation (Primary)



Figure 1.1, Old Wallace Library, West elevation, ground level view.

The west elevation contains of a five-bay neoclassical building, which was originally designed as a double-height one story theater with a partial basement. When the building rehabilitated into the school based offices, a second floor was created. The original windows were left in place when the second floor was constructed. The second floor is visible behind the glass of the windows. A full-height portico with a gable-end porch dominates the west elevation.

#### Chimney: None.

**Roof:**  
The roof is a hipped three roof, with a front gabled full-height porch. The roof is in in fair good condition. Only a few broken shingles were noted. The gutters are clogged. The weathering of the porch roof is separating from the roof, allowing water to run down the center between the porch and main body of the building.



Figure 1.2, Old Wallace Library, West elevation, detail of cornice.



Figure 1.3, Old Wallace Library, West elevation, detail of porch end.

#### Cornice:

The cornice features brackets and a dentil molding. The brackets and the dentil molding are also located on the eading corners of the gable end of the porch.



Figure 1.4, Old Wallace Library, West elevation, detail of foundation.

#### Foundation:

The foundation consists of large bricks laid in running bond. A fire-course, with mottled grey course, water table is located approximately sixteen inches from the grade.

#### Walls:

The walls are composed of large bricks laid in running bond. Mortar has been generally found throughout the elevations.



Figure 1.5, Old Wallace Library, West elevation, detail of windows. Note the second floor window visible through the windows. Note the masonry on the masonry sills.

#### Windows:

The west elevation features four double-height windows, one over one window with masonry sills and lintels. The sills show evidence of water stains. Mortar joints in masonry at the intersection of the window sills and the brick. The second floor window is visible through the windows.



Fredericksburg Historic Commission, Old Wallace Library  
Fredericksburg, Virginia  
Historic Preservation Report 2016  
Draft, 15 January 2016

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Fredericksburg Historic Commission, Old Wallace Library  
Fredericksburg, Virginia  
Historic Preservation Report 2016  
Draft, 15 January 2016

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# Wallace Library Fredericksburg, VA Existing Conditions Analysis 2016

Chapter 6  
Architectural, Structural, and MEP Recommendations Table

Summarized and Prioritized Recommendations

Priority 1 indicates that the condition requires immediate attention because it is causing active deterioration and threatens the integrity of the structure, or that poses a health and safety risk.

Priority 2 refers to a condition that should be addressed within a year, but only after the first priority needs have been met.

Priority 3 refers to a low priority issue that does not threaten the integrity of the historic building. Usually it pertains to an aesthetic problem which should be scheduled to meet and budget permit.

Priority 4 refers to materials, features or systems that require routine inspection or show signs of early deterioration and may require action in the next two years.

Recommendation	Priority (1, 2, 3, or 4)	Discipline	Cost Estimate
<b>Priority 1</b>			
<b>Priority 2</b>			
Install ground appropriate lighting (both site and canopy) that provides both safe access to the building and security after hours.	2	Architectural	
Create a new parking plan when the new use or uses have been selected. Preserve the historic nature of the site.	2	Architectural	
<b>Priority 3</b>			
Reorganize the historic landscape to tell the larger story of the social, civic, and judicial history of the site.	3	Architectural	
Provide double-upgraded signage to describe the newly-uncovered historic landscape and patterns of an occupation.	3	Architectural	
A responsibility for the Renwick Courthouse, Wallace Library, and Jail. Make site heading accessible. This work can be accomplished using hand level paving materials where appropriate, and in landscaped areas, through the use of permeable paving materials so that no new storm runoff is generated.	3	Architectural	

Renwick Courthouse, Wallace Library, and Jail  
Fredericksburg, Virginia  
Historic Structures Report  
Draft 12 February 2016  
Page 31

Recommendation	Priority (1, 2, 3, or 4)	Discipline	Cost Estimate
The site is paved directly up to the edge of the Courthouse to the north, south, and east portions of the building. The site of the jail is paved directly up to the west elevation. Consider repaving with a porous material to prevent the trapping of moisture at the base of the walls.	3	Architectural	
<b>Priority 4</b>			
When funding permits, archaeologically locate and measure evidence of the original jail, courthouse, or any previous buildings or features of the site.	4	Architectural	
Present on-site archaeological resources.	4		
Before any ground disturbance, coordinate all site work with appropriate relevant authorities.	4		
Create a landscape master plan of the site.	4	Architectural	
Following the results of the recommended historic landscape study, re-install historic walkways, and use them to interpret the site, as well as connect to parking.	4	Architectural	
Implement a maintenance program to service/inspect the masonry and masonry joints for blockages with focus on the effect of seasonal debris.	4	Architectural	

Recommendation	Priority (1, 2, 3, or 4)	Discipline	Cost Estimate
<b>Priority 1</b>			
Every effort should be made to retain historic building fabric, which provides evidence of early conditions and changes, and to treat it as gently as possible.	1	Architectural	
Undertake a comprehensive piece and finish analysis where historic materials exist for the building's interior and exterior surfaces.	1		

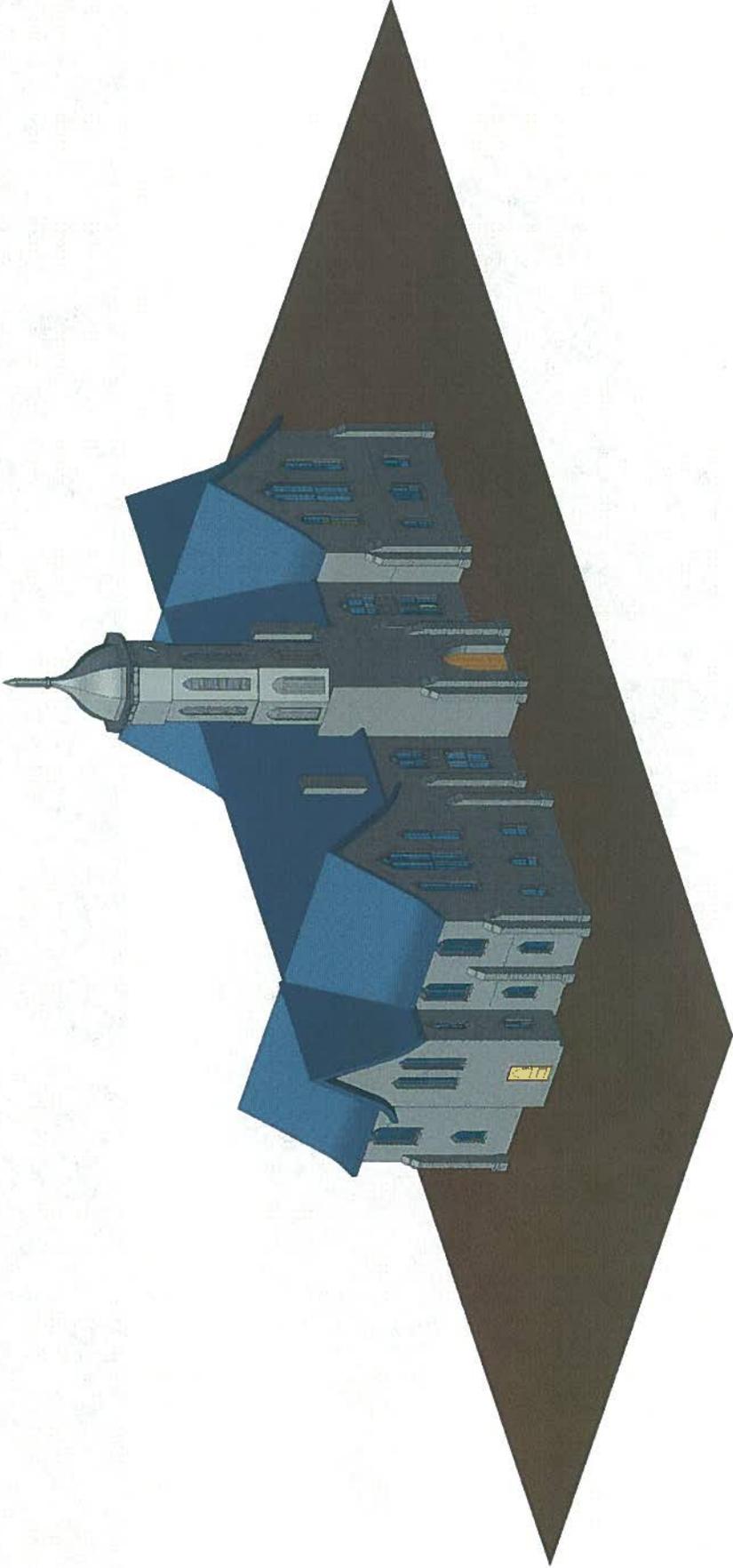
Renwick Courthouse, Wallace Library, and Jail  
Fredericksburg, Virginia  
Historic Structures Report  
Draft 12 February 2016  
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# Renwick Courthouse, Wallace Library, and Old Jail

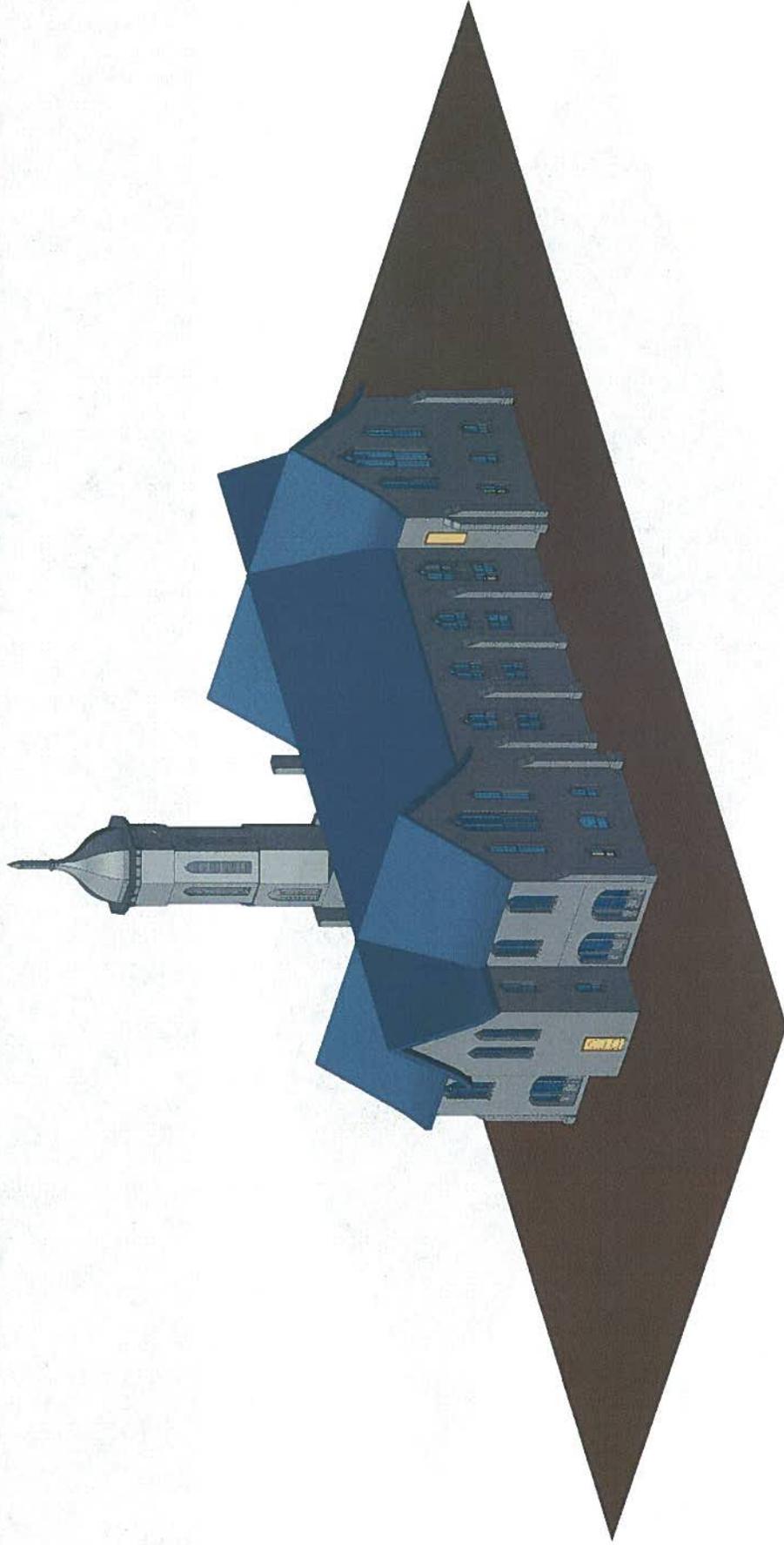
## Fredericksburg, VA

### Prioritized Recommendations and Cost Estimates

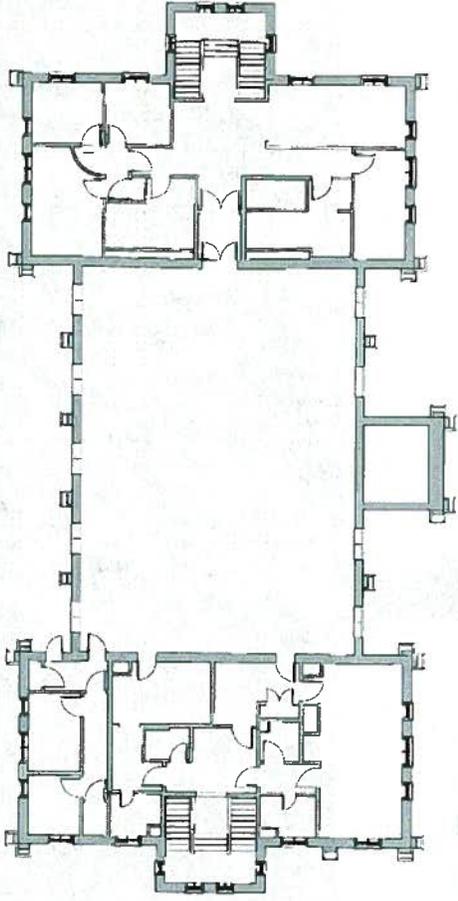
2016



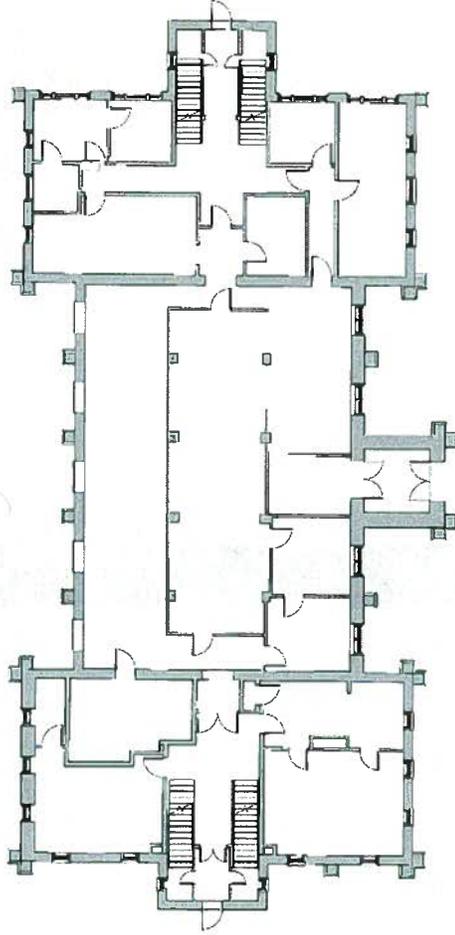
**Renwick Courthouse**  
Fredericksburg, VA  
3D View to southeast  
2016



**Renwick Courthouse**  
Fredericksburg, VA  
3D View to northwest  
2016

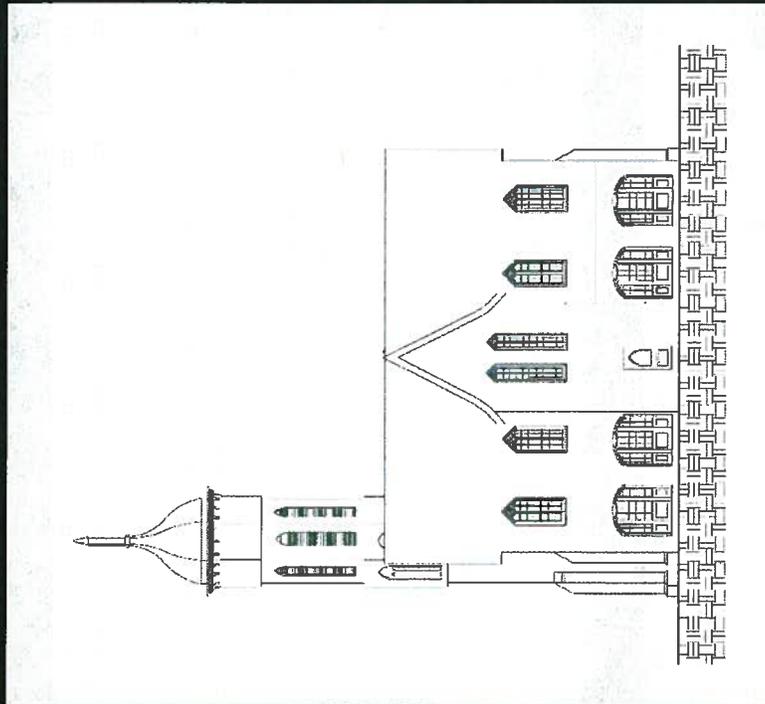


2<sup>nd</sup> floor plan

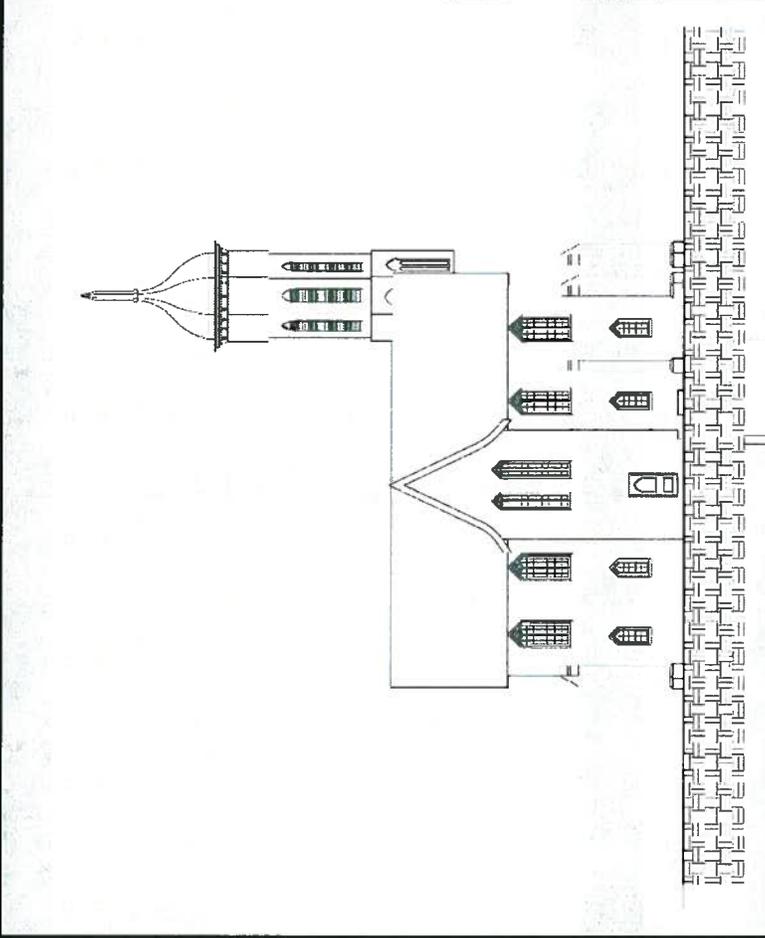


1<sup>st</sup> floor plan

**Renwick Courthouse**  
Fredericksburg, VA  
2016

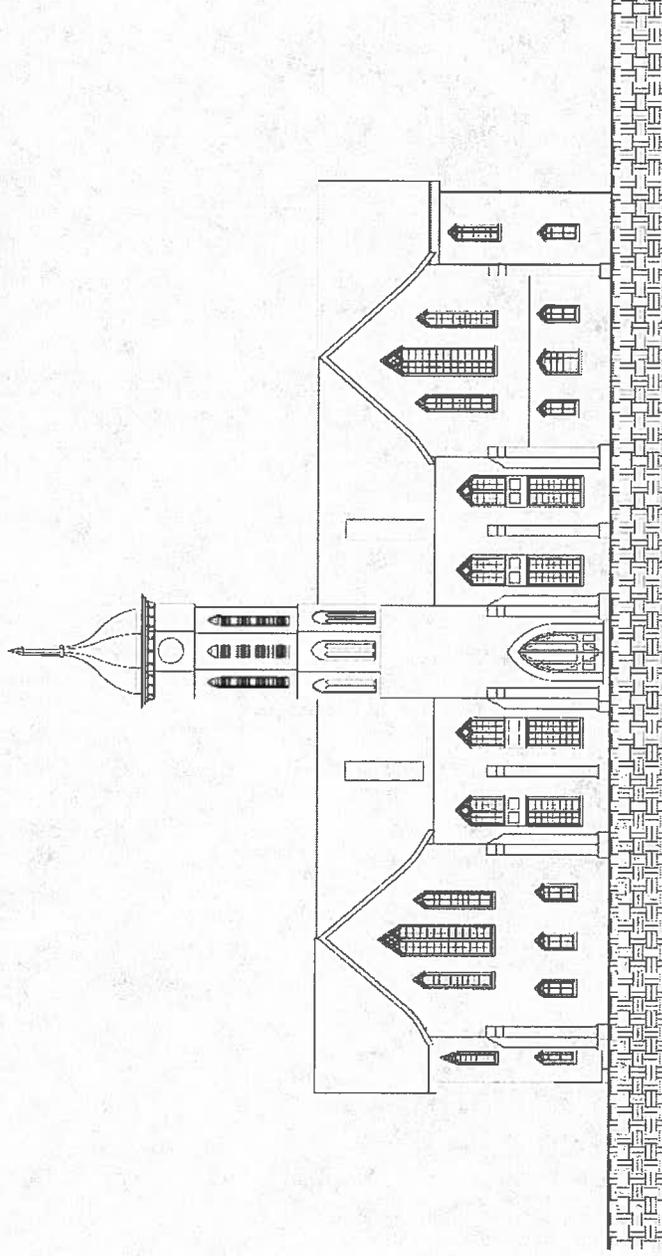


South elevation



North elevation

**Renwick Courthouse**  
Fredericksburg, VA  
3D View to northwest  
2016



**Renwick Courthouse**  
Fredericksburg, VA  
West elevation  
2016

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

## Next steps

- Complete detailing on drawings
- Complete coordination of recommendations with cost estimator
- Complete building history
- Check and coordinate electronic document collection

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

## Public Meetings

- Princess Anne Street Corridor  
Businesses and Property  
Owners meeting 27 October 2015
- Public Meeting held at  
Renwick Courthouse 7 December 2015
- Fredericksburg Architectural  
Review Board 14 December 2015
- Fredericksburg City Council 23 February 2016
- Courthouse Tour TBD

# Renwick Courthouse, Wallace Library, and Old Jail HSR: Survey

http://www.fredericksburgva.gov/FormCenter/City-M...  
File Edit View Favorites Tools Help  
Inbox

Fredericksburg, VA

## Renwick Courthouse, Old Jail and the Old Wallace Library Historic Structures Survey

The following survey will greatly help us to shape our understanding of how the Renwick Courthouse, Old Jail, and the Old Wallace Library functioned historically, and how we might plan for future work as the complex looks to a new future. While the current project, an Historic Structures Report, is focused on documenting the history of the complex, recording the architecture, assessing its physical condition, and making recommendations for rehabilitation / repair, we are asking these questions to help us both better understand the buildings as well as to plan for their future. We greatly appreciate your help in completing this survey.

**What is your connection to the Renwick Courthouse, Old Jail, and the Old Wallace Library?**

- I am an employee of the City of Fredericksburg
- I am a member of the Historic Fredericksburg Foundation
- I am just interested in the Renwick Courthouse, Old Jail, and the Old Wallace Library

**Where do you live?**

- City of Fredericksburg - 22401
- Spotsylvania
- Stafford
- Other

**In your opinion, what are the biggest challenges facing the Renwick Courthouse, Old Jail, and the Old Wallace Library?**

100% 12:50 PM 2/22/2016

# Renwick Courthouse, Wallace Library, and Old Jail HSR:

Thank you to many in Fredericksburg for their help

- City of Fredericksburg
  - Mark Whitley, Assistant City Manager
  - Bill Freehling, Assistant Director for Economic Development
  - Ray Regan, Division Manager of Public Facilities
- Fredericksburg Sheriff's Department
  - Keith Rodgers
  - David J. Sullivan, First Sergeant
- Fredericksburg Circuit Court
  - J. Travis Walker, Archivist
- Fredericksburg Court Records Project
  - Barry L. McGhee
  - Roberta (Bobby) Kerr
  - Gary Stanton
- Community Volunteers
  - James O. McGee, architect
- Central Rappahannock Regional Library & Virginia Room
- Central Rappahannock Heritage Center
  - John Reifenberg



# Renwick Courthouse, Wallace Library, and Old Jail

Fredericksburg, VA

1828 Revere Company Bell

2015



## MEMORANDUM

**TO:** Mayor Greenlaw and the City Council  
**FROM:** Rob Eckstrom, Assistant City Attorney  
**DATE:** February 18, 2016  
**RE:** Animal control ordinances

### Issue

Should the City update its dangerous and vicious dog, running at large, and animal nuisance ordinances?

### Recommendation:

Yes. Council should 1) update the City's dangerous and vicious dog ordinance to reflect changes in the authorizing statute, and 2) model the City's running-at-large and animal nuisance ordinances after Spotsylvania County's ordinances.

These changes were recommended by Spotsylvania Animal Control, which is currently serving as animal control for the City.

### Background:

#### Dangerous and vicious dogs:

The Virginia statute authorizing localities to pass ordinances governing dangerous and vicious dogs has been amended since the City passed its dangerous and vicious dog ordinance, and the City's ordinance has not been updated to reflect the changes. Having an up-to-date City ordinance is important because it allows animal control officers to issue citations under the City Code, rather than state law. This allows fines under the statute to go to the City, rather than the state. It also allows the City Attorney's Office to represent the officers in civil dangerous dog cases.

Changes to the dangerous and vicious dog ordinance include:

- Giving the court discretion to decide that, given all of the evidence presented, a dog is not dangerous or a threat to the community. § 14-61.

- ✓ -Allowing the court, upon finding a dog to be dangerous, to order the dog's owner to pay restitution for actual damages for injuries the dog caused to a person or companion animal. § 14-62(A).
- ✓ -Allowing the court to order the owner of a dangerous dog to pay the cost of confining the animal pending trial and subsequent dangerous dog registration. § 14-62(A).
- Increasing the fees for registration of dangerous dogs with local animal control from \$50 to \$150 (\$85 for renewals). § 14-63.
- Shifting the obligation for registering a dangerous dog with the state from the owner to animal control. § 14-63.
- Removing the provision allowing animal control to deem a dog dangerous without a district court trial. § 14-64.
- Specifying the penalties a court may impose upon convicting the owner of a dog already declared to be dangerous of violating the ordinance. § 14-68.

**Running at large; nuisance animals:**

Animal Control also recommends that the City enhance its running-at-large and "nuisance animal" ordinances. Spotsylvania County has done so, and has found its ordinances effective at addressing problematic behavior that does not rise to the level of "dangerous" safeguarding against overzealous enforcement. While the dangerous dog ordinance changes above would conform the City Code to state law, these changes would bring the City Code closer to Spotsylvania County's animal control ordinances.

Recommended changes to the running at large ordinance include:

- Defining "running at large," including exceptions for legitimate activities.
- Amending the penalties. Currently the penalty for a first violation is a Class 4 misdemeanor, and the penalty for a second violation within a year is a Class 1 misdemeanor. The amended ordinance makes the first violation a Class 4, the second violation within a year a Class 2, and subsequent violations a Class 1. Any violation involving a dangerous dog would be a Class 1. The net effect would be to decrease the penalty for non-dangerous second offenses, but to increase the penalty for all offenses involving dangerous dogs.

Recommended changes to the "nuisance animals" ordinance:

- Listing specific "nuisance" behaviors: chasing vehicles, causing property damage while trespassing, attacking other animals, habitually running at large, and having 3 or more convictions for running at large within 2 years.
- Providing legal process and penalties for similar to those for dangerous dogs.
- Increasing the penalties from a Class 4 misdemeanor to a Class 3 for most offenses and a Class 1 for attacking animals, habitually running at large, and having 3 or more convictions for running at large within 2 years.
- The ordinance would only allow "nuisance animal" charges if the offense happened in front of an animal control officer or if the complainant is willing to request a summons from the magistrate.

**Fiscal Impact:**

This ordinance would allow animal control to request that the court order the owners of dangerous dogs to pay for the cost of their confinement. It would also raise the fees for dangerous dog registration from \$50 to \$150 (\$85 for annual renewals).





**MOTION:**

**SECOND:**

**RE:**

**ACTION:**

**Date**  
**Regular Meeting**  
**Ordinance No. 16-\_\_**

IT IS HEREBY ORDAINED by the Fredericksburg City Council that Chapter 14 of the City Code is amended as follows:

**SEC. I. City Code Amendment.**

**1. Chapter 14, Article III is amended as follows:**

**§ 14-61 Definitions.**

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

**DANGEROUS DOG:** A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; ~~or~~ (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. *No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.*

**VICIOUS DOG:** A canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or on or before July 1, 2006, by an animal control officer as authorized by local ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

**§ 14-62 Determination by court that dog is dangerous or vicious.**

A. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. *The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger of the animal to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for the animal from the time the animal is taken into custody until the animal is disposed of or returned to the owner.* If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia (1950), § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Code of Virginia (1950), as amended, Art. 4, 19.2-260 et seq., Chapter 15 of Title 19.2. The commonwealth shall be required to prove its case beyond a reasonable doubt.

B. No canine or canine crossbreed shall be found to be a dangerous or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the dog's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous or vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous or vicious dog.

**§ 14-63 Registration of dangerous dogs; requirements for keeping dangerous dog.**

A. The owner of any animal found by a court to be a dangerous dog shall, within ~~10~~ 45 days of such finding, obtain a dangerous dog registration certificate from the local animal control

officer or treasurer for a fee of \$50 150 in addition to any other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that it wears the collar and tag at all times. ~~All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the state veterinarian. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained under this subsection shall be updated and renewed for a fee of \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.~~

B. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the dog's current rabies vaccination, if applicable, (ii) that the animal has been neutered or spayed, and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property, and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, which covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

~~§ 14-64 Determination by animal control officer that dog is dangerous.~~

~~Notwithstanding the provisions of § 14-62, the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of this article. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.~~

**§ 14-65 Confinement and restraint of dangerous dogs.**

While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature. When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash

and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

**§ 14-66 Dangerous dogs owned by minors.**

If the owner of an animal found by a court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

**§ 14-67 Information to be provided to animal control officer regarding dangerous dog.**

After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

**~~§ 14-67.5 Registration.~~**

~~The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, § 3.2-6538 within 45 days of such a finding by a court of competent jurisdiction. [The remaining language becomes a second paragraph under § 14-67].~~ The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

**§ 14-68 Penalty; disposition of fees.**

A. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this article is guilty of a Class 1 misdemeanor.

*Upon conviction, the court may (i) order the dangerous dog to be disposed of by the City under Code of Virginia § 3.2-6562 or (ii) grant the owner up to 45 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by the City under Code of Virginia § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for the dangerous dog from the time the animal is taken into custody until the animal is disposed of or returned to the owner.*

B. All fees collected pursuant to this article, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this article, shall be paid into a special dedicated fund in the treasury of the City for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.2-6556.

**§ 14-69 Penalty; continued.**

- A. Any owner or custodian of a canine crossbreed or other animal is guilty of:
- (1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person.
  - (2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such a declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

B. The provisions of this section shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

**§ 14-70 through § 14-89. (Reserved)**

**2. Chapter 14, Article IV is amended as follows:**

**§ 151 Running at large; leash law.**

A. It shall be unlawful for the owner or custodian of any dog or other animal, except cats, to allow such dog or other animal to run at large within the City at any time. ~~Any person convicted of a violation of this section shall be guilty of a Class 4 misdemeanor.~~

*B. For the purposes of this section, an animal is "running at large" while roaming, running or self-hunting off the property or premises of its owner or custodian and not under the immediate control of the owner or custodian or his agent. "Property or premises of its owner or custodian" for purposes of this section, does not mean residential or commercial common areas.*

*C. This section does not apply to any person while engaged in law enforcement or search and rescue activity; in a supervised formal obedience training class or show; during formally sanctioned field trials; while engaged in lawful hunting with a dog during open season; or during bona fide hunting or field trial dog training.*

D. *It shall be unlawful for the owner of an animal to place the animal or allow it to be placed in the custody of any other person not physically capable of maintaining effective control of the animal.*

E. *A violation of this section is a Class 4 misdemeanor for the first offense; provided, however, if the dog is a dangerous or vicious dog, a violation of this section is a Class 1 misdemeanor. A second violation of this section within one year of a conviction of the first violation is a Class 2 misdemeanor; provided, however, if the dog is a dangerous or vicious dog, a violation of this section is a Class 1 misdemeanor. A third or subsequent violation of this section within two years of conviction of the second or subsequent violation is a Class 1 misdemeanor.*

~~B. Any person convicted of two violations of this section within a twelve-month time period shall be guilty of a Class 1 misdemeanor.~~

~~C. Permitting ones dog or other animal (except cats) to habitually run at large shall constitute a public nuisance. Any person convicted of three violations of this section within a twelve-month time period shall be proceeded against by warrant or summoned before the general district court to show cause why such dog or other animal should not be confined, euthanized, removed or the nuisance otherwise abated.~~

[also add Spotsy's Sec. 4-22?]

**3. Chapter 14, Article IV is amended as follows:**

**§ 157 Nuisance animals.**

~~A. It shall be unlawful for any owner or custodian of an animal to fails to exercise proper care and control of his animal to prevent it from becoming a public nuisance. Excessive, continuous or untimely barking, or molesting of passersby shall be deemed a nuisance and a Class 4 misdemeanor.~~

A. *No owner or custodian shall fail to exercise proper care and control of his or her dog to prevent it from becoming a public nuisance. Acts deemed nuisances include but are not limited to:*

- (1) Chasing vehicles;*
- (2) Trespassing upon another's property in such a manner as to damage property;*
- (3) Attacking domestic, companion, or exotic animals so as to cause injury or death, unless the animal is trespassing upon the property on which the dog is kept;*
- (4) Habitually running at large; or*
- (5) Three or more convictions for running at large within two years.*
- (6) Excessive, continuous, or untimely barking or molesting of passersby.*

B. Any person owning or having possession or control of a dog suspected of being a nuisance shall be proceeded against by warrant or summoned before the general district court of the city to show cause why the dog should not be confined, euthanized, removed or the nuisance otherwise abated.

C. The animal control officer, owner, or custodian shall confine the animal until the court has made a final decision in the case. If the animal control officer deems confinement necessary then the owner or custodian shall be responsible for the impound fees.

D. Upon proof that such dog does constitute a public nuisance, the dog shall, by order of the general district court be confined, euthanized, removed, or the nuisance shall be otherwise abated, as the court shall order. No person shall fail to comply with such an order.

E. Violation of subsections (A)(3), (A)(4) or (A)(5) of this section is a Class 1 misdemeanor. Violation of any other provision of this section is a Class 3 misdemeanor.

F. This section shall not apply to any person while engaged in law enforcement or search and rescue activity; in a supervised formal obedience training class or show; during formally sanctioned field trials; while engaged in lawful hunting with a dog or dogs during open season; or during bona fide hunting or field trial dog training.

G. Enforcement. No person shall be charged with a violation of section 13-6(A), unless the complainant appears before a magistrate and request a summons or warrant be issued charging the violation; except that, when a violation is committed in the presence of an animal control officer, the officer may issue a summons and take other action as set forth in this section.

SEC. II. Effective Date.

This ordinance is effective immediately.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

\_\_\_\_\_  
Kathleen Dooley, City Attorney

\*\*\*\*\*

**Clerk's Certificate**

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.*

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***Tonya B. Lacey, CMC***  
***Clerk of Council***



CITY OF FREDERICKSBURG, VIRGINIA  
CITY COUNCIL

**MINUTES**

Council Chambers, 715 Princess Anne Street  
Fredericksburg, Virginia 22401

HON. MARY KATHERINE GREENLAW, MAYOR  
HON. WILLIAM C. WITHERS, JR., VICE -MAYOR, WARD TWO  
HON. KERRY P. DEVINE, AT-LARGE  
HON. MATTHEW J. KELLY, AT-LARGE  
HON. BRADFORD C. ELLIS, WARD ONE  
HON. DR. TIMOTHY P. DUFFY, WARD THREE  
HON. CHARLIE L. FRYE, JR., WARD FOUR

**January 26, 2016**

**The Council** of the City of Fredericksburg, Virginia, held a public hearing on Tuesday, February 23, 2016, beginning at 7:31 p.m. in the Council Chambers of City Hall.

**City Council Present.** Mayor Mary Katherine Greenlaw, Vice-Mayor William C. Withers, Jr. and Council members Kerry P. Devine, Dr. Timothy P. Duffy, Bradford C. Ellis, Charlie L. Frye, Jr. and Matthew J. Kelly.

**Also Present.** City Manager Beverly R. Cameron, Assistant City Manager Mark W. Whitley, City Attorney Kathleen Dooley, Assistant City Attorney Robert Eckstrom, Planning Services Director Charles Johnston, Community Development Planner Suzanna Finn, Zoning Administrator Michael Craig, Public Works Director Doug Fawcett and Clerk of Council Tonya B. Lacey.

**Notice of Public Hearings (D16-\_\_ thru D16-\_\_).** The Clerk read the notice of the public hearings as they appeared in the local newspaper, the purpose being to solicit citizen input.

**2016-2017 Community Development Block Grant Annual Action Plan (D16-\_\_).** – No speakers. The Annual Action Plan outlines projects that address housing and homeless needs for qualified individuals. The eligibility threshold for community development programs, as defined by HUD, is persons and families

whose household incomes are 80 percent of the area median income or below. The total number of households in Fredericksburg that could be classified as low and moderate income is 5,805 or 60.28 percent of the City's households. Previous plans directed funds to various non-profit organizations lending services to eligible applicants to include emergency rental/mortgage assistance, legal services, health counseling, financial counseling and food assistance. Services that are directly managed by the Planning Department include Direct Homeownership Assistance Programs, Removal of Architectural Barriers Program and Emergency Home Repair Program.

**Ordinance 16-06, First Read Approved, Rezoning Approximately 0.8829 Acres of Land Located 404 Willis Street From Light Industrial I-1 to Commercial Downtown (Conditional) (D16-\_\_).** – 2 speakers. Staff gave a brief staff presentation before the public hearing was heard.

Considerable discussion was had on changing the zoning and whether the zoning should be site specific because the change in zoning would add significant value to the property. Mr. Craig said they discussed making it site specific with the applicant but they chose not to do that and they opted to proffer out residential use. Council was concerned with the future use of the property if the zoning was not project specific.

**Dana Herlong**, Herlong Architects, 1009 Prince Edward Street, representing ERI stated that the top priority was the safety and security of the students at the school and that ERI was not ready to proffer it as a school at this time, but stated that the school was not planning to go anywhere. She said they were planning a master plan for a field house, campus and tennis courts but they were not ready to reveal those plans because it

may be a while before they could build the project. Ms. Herlong also stated that the school intends to proffer it as a school but did not have the time to do that right now.

**Joan McClaughlin**, 210 Caroline Street, said she appreciated the time given to this project she said there have been issues at some schools and she wants to be proactive by getting the security in place as soon as possible. She said if proffering the school as a school would move the rezoning along she would be happy to do so.

Councilor Devine moved to approve Ordinance 16-06, on first read, rezoning approximately 0.8829 acres of land located 404 Willis Street from Light Industrial I-1 to Commercial Downtown (Conditional) to include an additional condition stating that the proffer be for a school use; motion was seconded by Vice-Mayor Withers and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye, and Kelly. Nays (0).

**Adjournment.** There being no speakers to come before the Council at this time. Mayor Greenlaw Declared the hearing officially adjourned at 8:09 p.m.

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Mary Katherine Greenlaw, Mayor

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Tonya B. Lacey, Clerk of Council, CMC

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CITY OF FREDERICKSBURG, VIRGINIA  
CITY COUNCIL  
**MINUTES**  
Council Chambers, 715 Princess Anne Street  
Fredericksburg, Virginia 22401

HON. MARY KATHERINE GREENLAW, MAYOR  
HON. WILLIAM C. WITHERS, JR., VICE -MAYOR, WARD TWO  
HON. KERRY P. DEVINE, AT-LARGE  
HON. MATTHEW J. KELLY, AT-LARGE  
HON. BRADFORD C. ELLIS, WARD ONE  
HON. DR. TIMOTHY P. DUFFY, WARD THREE  
HON. CHARLIE L. FRYE, JR., WARD FOUR

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**February 23, 2016**

**The Council** of the City of Fredericksburg, Virginia, held a regular session on Tuesday, February 23, 2016, beginning at 7:30 p.m. in the Council Chambers of City Hall.

**City Council Present.** Mayor Mary Katherine Greenlaw, Vice-Mayor William C. Withers, Jr. and Council members Kerry P. Devine, Dr. Timothy P. Duffy, Bradford C. Ellis, Charlie L. Frye, Jr. and Matthew J. Kelly.

**Also Present.** City Manager Beverly R. Cameron, Assistant City Manager Mark W. Whitley, City Attorney Kathleen Dooley, Assistant City Attorney Robert Eckstrom, Planning Services Director Charles Johnston, Community Development Planner Suzanna Finn, Zoning Administrator Michael Craig, Public Works Director Doug Fawcett and Clerk of Council Tonya B. Lacey.

**Opening Prayer and Pledge of Allegiance.** Council was led in prayer by Councilor Bradford C. Ellis followed by the Pledge of Allegiance led by Mayor Mary Katherine Greenlaw.

**Officer Recognized.** Mayor Greenlaw recognized the presence of Officer Ted Marrs at this evening’s meeting.

**Citizen Comment.** The following speakers came forward to participate in the citizen comment portion of this evening’s meeting.

**Marilyn Brown**, 5287 Cedon Road, Woodford, VA, stated that Micah Ministries was putting people out on the street because they were smoking in the shelter. She also said that FRED transit had been missing stops and that the cab companies needed to put credit/debit machines in the cars.

**Kevin Brown (D16-\_\_)**, 460 Riverside Drive, stated that he had created a Facebook group page called “City Council Updates”. On this page he downloads and reposts City Council agendas and meeting minutes in hopes this would provide transparency in what’s going on in the City. See **D16-\_\_** for more information.

**Richard Harrison D16-\_\_**, 1304 Washington Avenue, thanked the Mayor and Council for actively listening, hearing and taking action to address concerns of the City residents on Washington Avenue. He expressed his concerns with the new independent tree committee and he was concerned that they did not have a clear mandate. He asked Council to provide the committee with a guiding principle for the tree plan and he suggested adopting the City of Charlottesville and the City of Richmond’s process. See **D16-\_\_** for more information.

**Robert Deaderick**, 1306 Washington Avenue, spoke in regards to the petitioners and the trees on the Washington Avenue Mall. He was concerned about the monuments being blocked by the trees that are planted. He noted that this property was in the National Historic Register. He was disappointed with Council for not speaking during the public forum that was held. He said they would love to see the City green but the mall is not the place.

**Ann Black**, 121 Poplar Drive, she had three questions regarding Governor’s Row. She wanted to know if Council was aware that two of the three home sites exhibit medium

to high shrink swell soil potential, and was there a shrink swell test required for new streets construction in City policy and she asked if it would be more appropriate to have a Geotechnical Engineer address the conditions rather than a Virginia licensed professional engineer?

Councilor Ellis responded on the shrink swell soil which he noted that the policy had changed due to issues in his neighborhood. He said in the past they would do an initially test for shrink swell when they graded the soil, and then after developers did additional grading the soil was not further tested but now it is required to be tested again in case the trucked soil was contaminated.

**Council Agenda Presented.** The following items were presented to Council.

7A. Tree Policy – Councilor Kelly

**Tree Policy** – Councilor Kelly thanked staff for setting up the tree committee and he noted that staff was working on a mission statement for the committee and they were also working on a policy for tree plantings in the future. He said unlike other capital improvements projects this was an ongoing project and the public needed to be kept updated.

**City Manager’s Consent Agenda Accepted for Transmittal as Recommended (D16-\_\_ thru D16-\_\_).** Following review and as recommended Councilor Kelly moved approval of the City Manager’s consent agenda items; motion was seconded by Councilor Frye and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Withers, Devein, Duffy, Ellis, Frye and Kelly. Nays (0).

- Transmittal of Financial Report (D16-\_\_).

- Resolution 16-16, Second Read, Amending the Fiscal Year 2016 Budget for Activities Related to Insurance Recoveries (D16-\_\_).
- Resolution 16-20, Authorizing the City Manager to Execute a Standard Project Construction, Operation and Maintenance Agreement with the Virginia Department of Transportation for Improvements to Princess Anne Street (Project #0001-111-258; UPC 100459)
- Transmittal of Boards and Commission Minutes
  - Architectural Review Board – December 14, 2015 (D16-\_\_).
  - Architectural Review Board – January 11, 2016 (D16-\_\_).
  - Clean and Green Commission – October 5, 2015 (D16-\_\_).
  - Clean and Green Commission – December 7, 2015 (D16-\_\_).
  - Economic Development Authority – January 11, 2016 (D16-\_\_).
  - Planning Commission – January 13, 2015 (D16-\_\_).
  - Potomac and Rappahannock Transportation Commission – January 7, 2016
  - Recreation Commission – December 10, 2015.

**Adoption of Minutes (D16-\_\_).** Councilor Devine moved approval of the February 9, 2016 Regular Session minutes and the February 17, 2016 Special Work Session; motion was seconded by Councilor Kelly and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye, and Kelly. Nays (0).

**Resolution 16-17, Second Read Approved, Amending the Fiscal Year 2016 Budget to Appropriate School Fund Balance in the School**

**Operating and School Grants Funds (D16-\_\_).** After staff presentation Councilors Duffy and Devine disclosed that they were members of a business, profession, occupation or group of three or more members affected by the transaction, namely they are employees of the Fredericksburg Public School system. Councilors Ellis and Frye disclosed that their spouses were members of a business, profession, occupation or group of three or more members affected by the transaction, namely they are employees of the Fredericksburg Public School system.

Councilor Duffy moved to approve Resolution 16-17, on second read, amending the fiscal year 2016 budget to appropriate school fund balance in the school operating and school grants funds; motion was seconded by Councilor Devine and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye and Kelly.

**Ordinance 16-07, First Read Approved, Revising the Solid Waste Chapter of the City Code to Address City-Owned Trash Carts, Include Recycling, Revise the Penalties for Violations, Grant Certain Administrative Authority to the Director of Public Works, Hold Lessors Responsible for Vacated Rental Properties, and Delete the Public Works Permit Requirement for Transporting Refuse (D16-\_\_).** Staff presented a PowerPoint presentation that covered the reason for the proposed changes to the solid waste code section, the actual changes to the code, addition of recycling, repealing permits for transporting trash and recycling, designated sites for waste deposit and several other miscellaneous revisions.

After some brief discussion, Councilor Kelly moved approval of Ordinance 16-07, on first read, to revise the Solid Waste Chapter of the City Code to address city-owned trash carts, include recycling, revise the penalties for violations, grant certain administrative authority to the Director of Public Works, hold lessors responsible for vacated rental properties, and delete the Public Works Permit requirement for transporting refuse; motion was seconded by Councilor Duffy and passed by the following recorded votes. Ayes (7). Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye and Kelly.

**City Manager’s Report and Council Calendar (D16-\_\_ thru D16-\_\_).** City Manager Cameron asked if there were any questions regarding the Manager’s report or the Council Calendar. Activities highlighted on the report were as follows: Group Tourism Sales Staff is on the Road Again Marketing the City and Region, New Drone Video Presents Central Park, Central Park Corporate Center, Celebrate Virginia Live Concert Series, FRED Transit Goes “Paperless”, Virginia Resources Authority Bond Pool Application, Public Safety Radio System, Fredericksburg Police Launch New Program to Build Relationships with City Youth, Fredericksburg Police Officers Visit Senior Citizens for Valentine’s Day, Parks and Recreation Holds Daddy Daughter Dance, Parks and Recreation Co-Sponsors Tax Aid, Property Maintenance Report for January 2016 and Building Construction Report for January 2016.

**Closed Meeting Approved.** Upon the motion of Councilor Devine, seconded by Councilor Kelly and passed by the following recorded votes, Council approved a closed session for discussion and consideration of candidates for the City Manager position, under Virginia Code §2.2-3711(A)(1). Ayes (7) Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye, and Kelly. Nays (0).

**Return to Open Meeting Approved.** Upon the motion of Councilor Kelly, seconded by Councilor Ellis and passed by the following recorded votes, Council approved a return to an open meeting. Ayes (7) Councilors Greenlaw, Withers, Devine, Duffy, Ellis, Frye, and Kelly. Nays (0).

**Resolution 16-21, Approved, Certifying Closed Meeting.** Upon the motion Councilor Kelly approved Resolution 16-21 certifying the closed meeting; seconded by Councilor Ellis and passed by the following recorded votes. Ayes (7) Councilors Greenlaw, Withers, Devine, Ellis, Frye, and Kelly. Nays (0).

**Adjournment.** There being no further business to come before the Council at this time, Mayor Greenlaw Declared the meeting officially adjourned at 9:40 p.m.

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Mary Katherine Greenlaw, Mayor

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Tonya B. Lacey, Clerk of Council, CMC



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Dave King, Assistant Director of Public Works  
**DATE:** March 1, 2016  
**SUBJECT:** Approval of Washington Avenue Mall Task Force

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**ISSUE**

Approval of a task force for the purpose of reviewing public comments submitted to the City regarding the current Washington Avenue mall tree plan and recommending any appropriate changes to the plan.

**RECOMMENDATION**

Staff recommends that City Council approve a resolution appointing a 7-member citizen task force and associated task force charter. The task force will meet as often as necessary to provide a full and complete review of the public comments that have been submitted to the City concerning the Washington Avenue mall tree plan and will develop a recommendation outlining any changes to the plan deemed necessary to address the City's interests as a whole. The task force will present a draft recommendation to the Clean and Green Commission and to the Recreation Commission for comments, and will submit a final recommendation to the City Council no later than July 12, 2016.

**DISCUSSION**

City staff and civic groups such as the Fredericksburg Council of Garden Clubs have been planting trees on the Washington Avenue mall for decades. Tree planting efforts on the mall have increased more recently, primarily due to cooperative efforts between the City, the Clean and Green Commission, the green committee, Tree Fredericksburg, the Fredericksburg Council of Garden Clubs, and other groups. Since 2005 the City and Fredericksburg Council of Garden Clubs have held an annual Arbor Day ceremony that included the planting of ceremonial trees on the mall. In 2008 the green committee worked with the parks department and the public works department to develop a new tree planting plan for the mall. While previous tree plans included as many as 134 trees, the current tree plan calls for a total of 62 trees to be planted. Over the past 2 years City staff has worked with Tree Fredericksburg to implement the new tree plan and to date, all but 12 trees have been planted in accordance with the plan.

In November 2015, a group of homeowners submitted a petition to the City requesting that no further trees be planted on the Washington Avenue mall and expressed concerns that too many trees were being planted without sufficient notice to the immediate community. The petition requested the City to consider removing some or most of the trees planted on the mall and restore the grounds to an open grass area.

In response to the petition, the City held a public forum on February 1, 2016 at the Dorothy Hart Community Center to present information about the current tree plan and also to allow the petition group to present their concerns about the mall trees. The public forum was attended by approximately 200 people and after the staff and petition group presentations approximately 50 people presented oral comments. The City announced at the forum that public comments would continue to be accepted until February 15. The City received 215 written comments.

The next logical step for the City is to task a group of citizens with a mission to review the comments that have been received (i.e. oral comments from the public forum and the written comments), review the concerns that have been raised by the petition group, review the current tree plan, and in consideration of all the evidence presented to them, provide a recommendation concerning changes to the tree plan that best meets the desires of the community as a whole.

Staff recommends a 7-member task force as follows:

- A representative from City staff - **Dave King**
- A representative from the Planning Commission – **Roy McAfee**
- A representative from the Washington Avenue Group – **Mr. Steve Gaske**
- A representative from HFFI – **Emily Taggart**
- A city resident representative – **Jeanette Cadwallender**
- A representative from the Clean and Green Commission – **George Solley**
- A historic preservation specialist – **Michael Spencer (UMW)**

Staff recommends that the task force be chartered with the following mission statements:

- Review the public comments that have been submitted to the City with respect to the current mall tree plan presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments, concerns of the petitioners, and other relevant information, develop a recommendation that best respects the interests of the at-large community with respect to the current tree plan.
- Present a draft recommendation to the Recreation Commission and to the Clean and Green Commission for the purpose seeking any additional input and considerations.
- Present a final recommendation to the City Council no later than July 12, 2016.

### **FISCAL IMPACT**

There are no fiscal impacts related directly to the formation of the task force.

Attachment: Resolution



March 8, 2016  
Regular Meeting  
Resolution No. 16-

**MOTION:**

**SECOND:**

**RE: COMMISSIONING OF A TASKFORCE FOR THE PURPOSE OF REVIEWING PUBLIC COMMENTS AND CONCERNS RELATED TO TREE PLANTINGS ON THE WASHINGTON AVENUE MALL AND DEVELOPING A RECOMMENDATION OF CHANGES IN THE INTERESTS OF THE CITY**

**ACTION: APPROVED: AYES: 0; NAYS: 0**

**WHEREAS**, the City has an urban tree program for the purpose of planting street trees, including various tree plantings on the Washington Avenue mall; and

**WHEREAS**, the City has developed a plan to plant trees on the Washington Avenue mall and has implemented that plan since 2008; and

**WHEREAS**, the City has received a petition from a group of citizens concerned about trees being planted on the mall; and

**WHEREAS**, a public forum was held on February 1, 2016 to present information about the mall tree plan and allowed for a period of public comment; and

**WHEREAS**, staff has recommend the creation of a 7-member task force for the purpose of reviewing public comments and concerns and developing a recommendation for any changes to the mall tree plan in the best interests of the City;

**NOW THEREFORE, BE IT RESOLVED**, that a task force is hereby commissioned and will meet as often as necessary to review and consider all public comments and concerns related to trees on the Washington Avenue mall and no later than July 12, 2016 will present a recommendation to City Council that addresses the best interests of the City with regards to any changes to the mall tree plan. The task force membership will be:

- A representative from City staff - **Mr. Dave King**
- A representative from the Planning Commission – **Mr. Roy McAfee**
- A representative from the Washington Avenue Group – **Mr. Steve Gaske**
- A representative from HFFI – **Ms. Emily Taggart**
- A city resident representative – **Ms. Jeanette Cadwallender**
- A representative from the Clean and Green Commission – **Mr. George Solley**
- A historic preservation specialist – **Mr. Michael Spencer (UMW)**

**BE IT FURTHER RESOLVED**, that the task force is chartered with the following mission statements:

- Review the public comments that have been submitted to the City with respect to the current mall tree plan that was presented at the February 1, 2016 public forum.
- Review the concerns that have been raised by the Washington Avenue mall petitioners.
- Coordinate with City staff for any supporting information that may be needed during deliberations.
- In consideration of the public comments by the community, concerns of the petitioners, and other relevant information, develop a recommendation that best addresses the interests of the community at large with respect to changes to the current tree plan.
- Present the recommendation to the Parks and Recreation Commission and to the Clean and Green Commission for any additional input and considerations.
- Present a final recommendation to the City Council for adoption.

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*Clerk's Certificate*

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16- duly adopted at the City Council meeting held March 8, 2016 at which a quorum was present and voted.*

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*Tonya Lacey  
Clerk of Council*



**MEMORANDUM**

**TO:** Beverly R. Cameron, City Manager  
**FROM:** Dave King, Assistant Director of Public Works  
**DATE:** March 2, 2016  
**SUBJECT:** 2016 Tree Planting Program

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**ISSUE**

Approval of the City's 2016 spring and fall tree planting program.

**RECOMMENDATION**

Staff recommends that City Council approve a resolution adopting staff's recommendation for the 2016 tree planting program.

**DISCUSSION**

City staff is planning to install new street trees this year in the following areas:

**Spring 2016 (approximately 300 trees)**

- **200 – 300 blocks of William Street: 50 trees**
- Lafayette Boulevard, between Willis Street and Kenmore Avenue: 69 trees
  - Funded by a \$5,000 EDA grant
- **Village of Idlewild: 136 trees**
  - 63 trees in Phase 1 cost shared by the HOA
  - 73 trees in Phase 3 funded by developer bond
  - Project will be split between spring and fall plantings
- **City Shop: 20 trees**
  - Majority are replacements of Bradford pear trees at the facility
- **Charles and Hanover Street neighborhood: 23 trees**
  - Replacing trees that have died and are missing
- **Old Mill Park: 7 trees**
  - Coordinated with parks department
- **VCR Trail: 4 trees**
- **Sunshine Ball Park: 6 trees**
  - Coordinated with parks department
- **Utility Line Tree Replacements: 60 trees**
  - Funded by a Virginia Department of Forestry Grant
  - Cooperative program with Dominion Virginia Power for replacement of dying and disfigured trees underneath power lines with more suitable trees.

Proposed Fall Plantings (areas currently under consideration – approximately 300 trees):

- Dorothy Hart Community Center area
- Upper Hanover Street area (between College Avenue and High Street)
- Lee Avenue and Weedon Street area
- Hunter, Elm, and Germania Street areas
- Kensington Hills (bond funding)
- Lower Caroline Street (100 – 300 blocks)
- William Street (400 – 600 blocks)
- Rowe Street and Augustine Avenue
- Riverwalk subdivision
- Hanson Avenue and Woodford Street
- Franklin Street
- Shepherd and Willis streets

**FISCAL IMPACT**

The anticipated City costs for the 2016 (spring and fall) tree planting program is \$40,000. This excludes trees that are funded through grants, bonds, and HOA cost share.

Attachments:

Resolution

Increasing the Tree Canopy Resolution 12-19



March 8, 2016  
Regular Meeting  
Resolution No. 16-

**MOTION:**

**SECOND:**

**RE: APPROVING THE SPRING AND FALL 2016 TREE PLANTING PROGRAM**

**ACTION: APPROVED: AYES: 0; NAYS: 0**

**WHEREAS**, the City Council of the City of Fredericksburg, Virginia established the Clean and Green Commission to ensure effective planning and maintenance of the City's landscape elements and amenities; and

**WHEREAS**, the Comprehensive Plan calls for maintaining and enhancing the City's tree canopy; and

**WHEREAS**, the Clean and Green Commission is actively addressing the Comprehensive Plan's goals for Community Appearance and Environmental Protection through an active tree planting program; and

**WHEREAS**, City Council resolution 12-19 seeks to increase the City's tree canopy by five percent by the year 2022, a goal consistent with the Comprehensive Plan and efforts of the Clean and Green Commission; and

**WHEREAS**, staff has presented a recommendation for the 2016 tree planting program areas;

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Fredericksburg, Virginia approves the 2016 tree planting program as recommended by City staff to further the goals of the Comprehensive Plan and efforts of the Clean and Green Commission.

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*Clerk's Certificate*

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16- duly adopted at the City Council meeting held March 8, 2016 at which a quorum was present and voted.*

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*Tonya Lacey, CMC  
Clerk of Council*



**MOTION: DEVINE**

**SECOND: SOLLEY**

**March 27, 2012  
Regular Meeting  
Resolution No. 12-19**

**RE: INCREASING THE TREE CANOPY WITHIN THE CITY BY FIVE PERCENT OVER THE NEXT TEN YEARS**

**ACTION: APPROVED; Ayes: 7; Nays: 0**

**WHEREAS**, the City Council of the City of Fredericksburg, Virginia established the Clean and Green Commission to ensure effective planning and maintenance of the City's landscape elements and amenities; and

**WHEREAS**, the Clean and Green Commission is actively addressing the Comprehensive Plan's goals for Community Appearance and Environmental Protection through an active tree planting program; and

**WHEREAS**, the Clean and Green Commission leverages available tree funding through partnerships and grant opportunities; and

**WHEREAS**, the Virginia Department of Forestry, through aerial analysis in 2010, determined that 44 percent of Fredericksburg's land area is already under tree cover and plans to reevaluate the tree canopy of Virginia cities in ten years; and

**WHEREAS**, the Comprehensive Plan also calls for maintaining and enhancing the City's tree canopy,

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Fredericksburg, Virginia seeks to increase the City's tree canopy by five percent over the next ten years, as a goal consistent with the Comprehensive Plan and the efforts of the Clean and Green Commission.

**Votes:**

**Ayes:** Tomzak, Greenlaw, Devine, Ellis, Howe, Paolucci, Solley

**Nays:** None

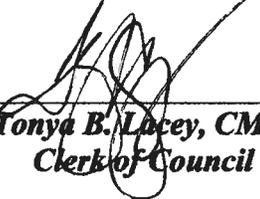
**Absent from Vote:** None

**Absent from Meeting:** None

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***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 12-19 duly adopted at a meeting of the City Council meeting held March 27, 2012 at which a quorum was present and voted.*



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***Tonya B. Lacey, CMC***  
***Clerk of Council***



**MEMORANDUM**

**TO:** Mayor Greenlaw and the City Council  
**FROM:** Rob Eckstrom, Assistant City Attorney  
**DATE:** February 18, 2016  
**RE:** Animal control ordinances

**Issue**

Should the City update its dangerous and vicious dog, running at large, and animal nuisance ordinances?

**Recommendation:**

Yes. Council should 1) update the City's dangerous and vicious dog ordinance to reflect changes in the authorizing statute, and 2) model the City's running-at-large and animal nuisance ordinances after Spotsylvania County's ordinances.

These changes were recommended by Spotsylvania Animal Control, which is currently serving as animal control for the City.

**Background:**

**Dangerous and vicious dogs:**

The Virginia statute authorizing localities to pass ordinances governing dangerous and vicious dogs has been amended since the City passed its dangerous and vicious dog ordinance, and the City's ordinance has not been updated to reflect the changes. Having an up-to-date City ordinance is important because it allows animal control officers to issue citations under the City Code, rather than state law. This allows fines under the statute to go to the City, rather than the state. It also allows the City Attorney's Office to represent the officers in civil dangerous dog cases.

Changes to the dangerous and vicious dog ordinance include:

- Giving the court discretion to decide that, given all of the evidence presented, a dog is not dangerous or a threat to the community. § 14-61.

- Allowing the court, upon finding a dog to be dangerous, to order the dog's owner to pay restitution for actual damages for injuries the dog caused to a person or companion animal. § 14-62(A).
- Allowing the court to order the owner of a dangerous dog to pay the cost of confining the animal pending trial and subsequent dangerous dog registration. § 14-62(A).
- Increasing the fees for registration of dangerous dogs with local animal control from \$50 to \$150 (\$85 for renewals). § 14-63.
- Shifting the obligation for registering a dangerous dog with the state from the owner to animal control. § 14-63.
- Removing the provision allowing animal control to deem a dog dangerous without a district court trial. § 14-64.
- Specifying the penalties a court may impose upon convicting the owner of a dog already declared to be dangerous of violating the ordinance. § 14-68.

Running at large; nuisance animals:

Animal Control also recommends that the City enhance its running-at-large and "nuisance animal" ordinances. Spotsylvania County has done so, and has found its ordinances effective at addressing problematic behavior that does not rise to the level of "dangerous" safeguarding against overzealous enforcement. While the dangerous dog ordinance changes above would conform the City Code to state law, these changes would bring the City Code closer to Spotsylvania County's animal control ordinances.

Recommended changes to the running at large ordinance include:

- Defining "running at large," including exceptions for legitimate activities.
- Amending the penalties. Currently the penalty for a first violation is a Class 4 misdemeanor, and the penalty for a second violation within a year is a Class 1 misdemeanor. The amended ordinance makes the first violation a Class 4, the second violation within a year a Class 2, and subsequent violations a Class 1. Any violation involving a dangerous dog would be a Class 1. The net effect would be to decrease the penalty for non-dangerous second offenses, but to increase the penalty for all offenses involving dangerous dogs.

Recommended changes to the "nuisance animals" ordinance:

- Listing specific "nuisance" behaviors: chasing vehicles, causing property damage while trespassing, attacking other animals, habitually running at large, and having 3 or more convictions for running at large within 2 years.
- Providing legal process and penalties for similar to those for dangerous dogs.
- Increasing the penalties from a Class 4 misdemeanor to a Class 3 for most offenses and a Class 1 for attacking animals, habitually running at large, and having 3 or more convictions for running at large within 2 years.
- The ordinance would only allow "nuisance animal" charges if the offense happened in front of an animal control officer or if the complainant is willing to request a summons from the magistrate.

**Fiscal Impact:**

## **ITEM #10C**

This ordinance would allow animal control to request that the court order the owners of dangerous dogs to pay for the cost of their confinement. It would also raise the fees for dangerous dog registration from \$50 to \$150 (\$85 for annual renewals).



March 8, 2016  
Regular Meeting  
Ordinance No. 16-\_\_

**MOTION:**

**SECOND:**

**RE: CONFORMING THE DANGEROUS AND VICIOUS DOG ORDINANCE TO STATE CODE, AND AMENDING THE RUNNING AT LARGE AND NUISANCE ANIMAL ORDINANCES**

**ACTION: APPROVED: Ayes: 0; NAYS: 0**

**FIRST READ:** \_\_\_\_\_ **SECOND READ:** \_\_\_\_\_

**IT IS HEREBY ORDAINED** by the Fredericksburg City Council that Chapter 14 of the City Code is amended as follows:

SEC. I. City Code Amendment.

**1. Chapter 14, Article III is amended as follows:**

**§ 14-61 Definitions.**

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

**DANGEROUS DOG:** A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; ~~or~~ (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. *No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.*

**VICIOUS DOG:** A canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or on or before July 1, 2006, by an animal control officer as authorized by local ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

**§ 14-62 Determination by court that dog is dangerous or vicious.**

A. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. *The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger of the animal to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for the animal from the time the animal is taken into custody until the animal is disposed of or returned to the owner.* If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia (1950), § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Code of Virginia (1950), as amended, Art. 4, 19.2-260 et seq., Chapter 15 of Title 19.2. The commonwealth shall be required to prove its case beyond a reasonable doubt.

B. No canine or canine crossbreed shall be found to be a dangerous or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the dog's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous or vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous or vicious dog.

**§ 14-63 Registration of dangerous dogs; requirements for keeping dangerous dog.**

A. The owner of any animal found by a court to be a dangerous dog shall, within ~~40~~ 45 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of ~~\$50~~ 150 in addition to any other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that it wears the collar and tag at all times. ~~All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the state veterinarian. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained under this subsection shall be updated and renewed for a fee of \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.~~

B. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the dog's current rabies vaccination, if applicable, (ii) that the animal has been neutered or spayed, and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property, and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, which covers animal bits. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

**~~§ 14-64 Determination by animal control officer that dog is dangerous.~~**

~~Notwithstanding the provisions of § 14-62, the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of this article. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.~~

**§ 14-65 Confinement and restraint of dangerous dogs.**

While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to

prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature. When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

**§ 14-66 Dangerous dogs owned by minors.**

If the owner of an animal found by a court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

**§ 14-67 Information to be provided to animal control officer regarding dangerous dog.**

After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

**~~§ 14-67.5 Registration.~~**

~~The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, § 3.2-6538 within 45 days of such a finding by a court of competent jurisdiction. [The remaining language becomes a second paragraph under § 14-67]. The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.~~

**§ 14-68 Penalty; disposition of fees.**

A. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this article is guilty of a Class 1 misdemeanor.

*Upon conviction, the court may (i) order the dangerous dog to be disposed of by the City under Code of Virginia § 3.2-6562 or (ii) grant the owner up to 45 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by the City under Code of Virginia § 3.2-6562. The court, in its discretion, may order*

*the owner to pay all reasonable expenses incurred in caring and providing for the dangerous dog from the time the animal is taken into custody until the animal is disposed of or returned to the owner.*

B. All fees collected pursuant to this article, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this article, shall be paid into a special dedicated fund in the treasury of the City for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.2-6556.

**§ 14-69 Penalty; continued.**

A. Any owner or custodian of a canine crossbreed or other animal is guilty of:

(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person.

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such a declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

B. The provisions of this section shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

**§ 14-70 through § 14-89. (Reserved)**

**2. Chapter 14, Article IV is amended as follows:**

**§ 151 Running at large; leash law.**

A. It shall be unlawful for the owner or custodian of any dog or other animal, except cats, to allow such dog or other animal to run at large within the City at any time. ~~Any person convicted of a violation of this section shall be guilty of a Class 4 misdemeanor.~~

B. *For the purposes of this section, an animal is "running at large" while roaming, running or self-hunting off the property or premises of its owner or custodian and not under the immediate control of the owner or custodian or his agent. "Property or premises of its owner or custodian" for purposes of this section, does not mean residential or commercial common areas.*

C. *This section does not apply to any person while engaged in law enforcement or search and rescue activity; in a supervised formal obedience training class or show; during formally sanctioned field trials; while engaged in lawful hunting with a dog during open season; or during bona fide hunting or field trial dog training.*

*D. It shall be unlawful for the owner of an animal to place the animal or allow it to be placed in the custody of any other person not physically capable of maintaining effective control of the animal.*

*E. A violation of this section is a Class 4 misdemeanor for the first offense; provided, however, if the dog is a dangerous or vicious dog, a violation of this section is a Class 1 misdemeanor. A second violation of this section within one year of a conviction of the first violation is a Class 2 misdemeanor; provided, however, if the dog is a dangerous or vicious dog, a violation of this section is a Class 1 misdemeanor. A third or subsequent violation of this section within two years of conviction of the second or subsequent violation is a Class 1 misdemeanor.*

~~B. Any person convicted of two violations of this section within a twelve-month time period shall be guilty of a Class 1 misdemeanor.~~

~~C. Permitting ones dog or other animal (except cats) to habitually run at large shall constitute a public nuisance. Any person convicted of three violations of this section within a twelve-month time period shall be proceeded against by warrant or summoned before the general district court to show cause why such dog or other animal should not be confined, euthanized, removed or the nuisance otherwise abated.~~

[also add Spotsy's Sec. 4-22?]

**3. Chapter 14, Article IV is amended as follows:**

**§ 157 Nuisance animals.**

~~A. It shall be unlawful for any owner or custodian of an animal to fails to exercise proper care and control of his animal to prevent it from becoming a public nuisance. Excessive, continuous or untimely barking, or molesting of passersby shall be deemed a nuisance and a Class 4 misdemeanor.~~

*A. No owner or custodian shall fail to exercise proper care and control of his or her dog to prevent it from becoming a public nuisance. Acts deemed nuisances include but are not limited to:*

- (1) Chasing vehicles;*
- (2) Trespassing upon another's property in such a manner as to damage property;*
- (3) Attacking domestic, companion, or exotic animals so as to cause injury or death, unless the animal is trespassing upon the property on which the dog is kept;*
- (4) Habitually running at large; or*
- (5) Three or more convictions for running at large within two years.*
- (6) Excessive, continuous, or untimely barking or molesting of passersby.*

*B. Any person owning or having possession or control of a dog suspected of being a nuisance shall be proceeded against by warrant or summoned before the general district court of the city to show cause why the dog should not be confined, euthanized, removed or the nuisance otherwise abated.*

*C. The animal control officer, owner, or custodian shall confine the animal until the court has made a final decision in the case. If the animal control officer deems confinement necessary then the owner or custodian shall be responsible for the impound fees.*

*D. Upon proof that such dog does constitute a public nuisance, the dog shall, by order of the general district court be confined, euthanized, removed, or the nuisance shall be otherwise abated, as the court shall order. No person shall fail to comply with such an order.*

*E. Violation of subsections (A)(3), (A)(4) or (A)(5) of this section is a Class 1 misdemeanor. Violation of any other provision of this section is a Class 3 misdemeanor.*

*F. This section shall not apply to any person while engaged in law enforcement or search and rescue activity; in a supervised formal obedience training class or show; during formally sanctioned field trials; while engaged in lawful hunting with a dog or dogs during open season; or during bona fide hunting or field trial dog training.*

*G. Enforcement. No person shall be charged with a violation of section 13-6(A), unless the complainant appears before a magistrate and request a summons or warrant be issued charging the violation; except that, when a violation is committed in the presence of an animal control officer, the officer may issue a summons and take other action as set forth in this section.*

## SEC. II. Effective Date.

This ordinance is effective immediately.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

---

Kathleen Dooley, City Attorney

\*\*\*\*\*

*Clerk's Certificate*

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.*

---

***Tonya B. Lacey, CMC***  
***Clerk of Council***



**MEMORANDUM**

**TO:** Fredericksburg City Council

**FROM:** Kathleen Dooley, City Attorney

**DATE:** March 3, 2016

**RE:** Resolution urging Governor McAuliffe to veto SB 549 Proffer Bill

**ISSUE:**

Senate Bill 549 is legislation that will profoundly change the proffer system in Virginia localities. It has been approved by the Virginia General Assembly House and Senate, and is now before the Governor for action. The bill is problematic in many respects. It will cast doubt on the City's ability to seek cash proffers from new residential development to support City schools, and it will have a chilling effect on the ability of City staff, planning commissioners, and City Council members to engage a zoning applicant in a collaborative effort to address the impacts of new residential development.

Shall the City Council urge the Governor to veto the bill?

**RECOMMENDATION:**

Yes. The bill passed by more than a 2/3 majority in each house, but there is a possibility that some of the members who supported the bill may not vote to override a veto.

**BACKGROUND:**

Virginia localities, including the City of Fredericksburg, voiced their concerns with this bill throughout the General Assembly's legislative process, but those concerns were not heard. My letter to Governor McAuliffe and the draft City Council resolution detail the problems with the bill. The letter from Hanover County is also attached for your information. The Governor's deadline to veto the bill is midnight on March 8, the date of the City Council meeting. If Council adopts the Resolution, I will email it to the Governor's staff immediately for their consideration. The Loudoun County and Hanover County boards of supervisors have adopted similar resolutions.



March 8, 2016  
Regular Meeting  
Resolution No. 16-

**MOTION:**

**SECOND:**

**RE: REQUESTING THE GOVERNOR TO VETO SENATE BILL 549**

**ACTION: APPROVED: AYES: 0; NAYS: 0**

**WHEREAS**, Senate Bill 549 (“SB 549”) will cause significant adverse impacts to the rezoning process as to create uncertainty, increased community impacts and litigation which will negatively impact the development of real property in the Commonwealth of Virginia; and

**WHEREAS**, SB 549 is antagonistic to orderly, managed and planned growth of vibrant neighborhoods and communities in which to live, work, and play where residents are served by adequate public facilities; and

**WHEREAS**, SB 549 will inhibit a constructive and collaborative development process between localities and rezoning applicants; and

**WHEREAS**, SB 549 creates an unfunded mandate by eliminating the ability of localities and developers to adequately mitigate the impacts of development and will cause upward pressure on local tax rates to pay for public facilities that can no longer be proffered in rezoning cases; and

**WHEREAS**, SB 549 would eliminate the flexibility currently available to localities and developers to customize developments by prohibiting developers from offering innovative proffers, and localities from accepting such proffers, to meet the needs of modern and vibrant communities that attract economic development; and

**WHEREAS**, SB 549 would cause a complete reversal in the body of law governing rezoning cases developed by the highest courts over the last century by transferring the historic presumption of reasonableness from locally elected legislative bodies to land developers; and

**WHEREAS**, SB 549 would have a chilling effect on the ability of planning commissioners and members of local governing bodies to respond to or address concerns expressed by constituents during the public hearing process thus rendering the public hearing process a mere formality; and

**WHEREAS**, SB 549 completely eliminates the ability of applicants, despite a genuine desire to do so, to offer proffers for public facilities or improvements where the need for

such facilities or improvements is not specifically attributable to the proposed residential development; and

**WHEREAS**, SB 549 would discourage staff, planning commissioners and local legislators throughout the rezoning process from engaging in constructive discussion of proposed residential rezonings; and

**WHEREAS**, SB 549 would prohibit applicants from proffering, and localities from accepting proffers for many essential public facilities that would ultimately serve the needs of the eventual residents of proposed residential developments or offsite improvements to mitigate very real light, noise, and visual impacts to adjacent properties.

**NOW THEREFORE, BE IT RESOLVED** that the City of Fredericksburg Council calls upon the Honorable Terence R. McAuliffe, Governor of the Commonwealth of Virginia to veto Senate Bill 549.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

\*\*\*\*\*

***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16- duly adopted at a meeting of the City Council meeting held \_\_\_\_\_ at which a quorum was present and voted.*

---

***Tonya B. Lacey***  
***Clerk of Council***

Kathleen Dooley  
City Attorney  
  
Rob Eckstrom  
Assistant City Attorney



601 Caroline Street, Suite  
200B  
P.O. Box 7447  
Fredericksburg, VA  
22401  
540-372-1020

March 3, 2016

**By E-mail**

Honorable Terence R. McAuliffe  
Governor of the Commonwealth of Virginia  
Patrick Henry Building – 3rd Floor  
1111 E. Broad Street  
Richmond, Virginia 23219

Re: Resolution of the Fredericksburg City Council Requesting Veto of SB 549

Dear Governor McAuliffe:

On behalf of the Fredericksburg City Council I strongly urge you to veto Senate Bill 549 *Provisions applicable to certain conditional rezoning proffers* ("SB 549"). This bill will have a profound, adverse impact on the rezoning process for residential development. Specifically, it prohibits a constructive and collaborative development process for rezonings; eliminates the ability of localities and developers to adequately mitigate the impacts of development; shifts the costs of necessary public facilities from new developments to existing taxpayers; and reverses the longstanding presumption of reasonableness that otherwise attaches to local legislation, by creating and imposing a new presumption of unreasonableness with respect to a local governing body's rezoning decisions.

In effect, SB 549 usurps local government authority to determine the best use of property within its jurisdiction, undermines local government's ability to assure orderly, planned growth of vibrant neighborhoods and communities, fundamentally alters the law by transforming a locality's rezoning decision from a legislative to a ministerial act, and ultimately creates a genuine issue of separation of powers by allowing the courts to direct that rezonings be approved despite the existence of valid reasons for denial, effectively allowing courts to substitute their judgment for that of the democratically elected legislative bodies.

The bill (lines 61-64) appears to eliminate the "cost-recovery" or "buy-in" method of calculating a reasonable proffer. The City projected school attendance and then built schools to accommodate that attendance. City taxpayers are paying debt service for these schools. New residential developments buy-in to school capital costs as they come on line. This is called the "buy-in" or "cost recovery" methodology. If proffers are reasonable only when the new development addresses an impact to a public facility in excess of existing facility capacity, then localities that build capacity for projected needs will suffer.

The bill eliminates cash proffers for on-site improvements. For example, a developer who proffers to dedicate a pocket park and cash for the future purchase and installation of playground equipment will have made an “offsite proffer” under this bill. The definition of “offsite proffers” (lines 19 and 20) includes “all cash proffers,” including those for on-site improvements. The definition of “onsite proffers” (lines 21-22) excludes all cash proffers.

The bill includes an exemption for areas planned for mixed use revitalization and transit-oriented development, (lines 86-90) but the exemption requires an FAR that exceeds the appropriate scale for growing mid-sized cities in the Commonwealth. Redevelopment efforts in the City of Fredericksburg will be led by a Small Area Plan process. The Comprehensive Plan already emphasizes that several of these areas (most notably Area 6 including the historic Princess Anne Street Corridor) be redeveloped into mixed-use places that are served by mass transit (the FRED transit system). But the requirement that a revitalization area be envisioned to have at least a 3.0 FAR may preclude Fredericksburg’s key revitalization areas from using the proffer system to adequately plan for and fund needed infrastructure to support the redevelopment.

The bill will have a chilling effect on the collaborative discussions between the developer and City staff, planning commissioners, and City Council members, because any “suggestion” that is made (line 75) during the process creates a cause of action for challenging a zoning decision and a presumption that the suggestion was the controlling basis for the denial of an application.

The bill appears to eliminate cash proffers for non-construction costs of off-site facility improvements, such as land acquisition, surveying, engineering, architecture, furniture, and financing charges, associated with the construction of new public schools, because these costs are not included in the definition of “public safety facility improvement,” (lines 34-36) “public school facility improvement,” (lines 37-39) and “public transportation facility improvement,” (lines 40-44). Contrast these definitions with the broad definition of “costs” in Code of Virginia § 15.2-2602.

The poor drafting of the bill will lead to unnecessary and expensive litigation. For example, the bill’s definition of “new residential development” (lines 12-16) is confusing, because it incorporates development that results in either one or more additional residential dwelling units, or otherwise, fewer residential dwelling units, “beyond” what may be permitted by right. The definition also defines “new residential use” (lines 17-18) to include “any use of residentially zoned property,” which would include many non-residential uses, such as bed and breakfasts, community centers, libraries, child care centers, family day homes, and parks and playgrounds – all permitted uses in Fredericksburg residential zoning districts.

According to long settled Virginia case law, the decision of a local governing body approving or denying an application for rezoning is a legislative act that is presumed to be reasonable. Even if a plaintiff presents evidence that the locality’s decision was unreasonable, the local legislative action must be sustained if the locality offers some evidence of its reasonableness, thereby making the question fairly debatable. SB 549 converts the presumption to one of unreasonableness and requires the locality to challenge

that presumption with clear and convincing evidence – the highest standard of proof in civil cases. This would effectively eliminate the “fairly debatable” standard that has applied in rezoning cases for decades.

Virginia localities, including the City of Fredericksburg, brought these concerns to the attention of the General Assembly, but they were not heard. The Fredericksburg City Council will meet on March 8, at which time it will consider the attached resolution. I anticipate that the Council will approve the resolution at its March 8<sup>th</sup> meeting, after which I will email a certified copy to your office.

Sincerely,

Kathleen Dooley  
City Attorney

c: Hon. Mark R. Herring, Attorney General of Virginia  
Senator Bryce Reeves  
Senator Richard Stuart  
Speaker William Howell  
Delegate Mark Cole

**BOARD OF SUPERVISORS**

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*Beaverdam District*

**Angela Kelly-Wiecek, Vice-Chair**  
*Chickahominy District*

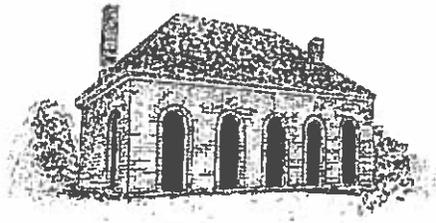
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**Wayne T. Hazzard**  
*South Anna District*

**W. Canova Peterson**  
*Mechanicsville District*

**Faye O. Prichard**  
*Ashland District*

**Scott A. Wyatt**  
*Cold Harbor District*



*Historic Hanover Courthouse*

**Office of the County Attorney**  
**COUNTY OF HANOVER**  
7516 County Complex Road  
P. O. Box 470  
Hanover, Virginia 23069-0470  
(804) 365-6035  
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**Sterling E. Rives III**  
*County Attorney*

**Yvonne S. Gibney**  
*Deputy County Attorney*

**Dennis A. Walter**  
*Deputy County Attorney*

**Rebecca B. Randolph**  
*Senior Assistant County Attorney*

**Lisa A. Seward**  
*Senior Assistant County Attorney*

**Katherine C. Donhauser**  
*Assistant County Attorney*

March 2, 2016

The Honorable Terry McAuliffe  
Governor of Virginia  
Patrick Henry Building  
1111 East Broad Street, 3<sup>rd</sup> Floor  
Richmond, VA 23219

Re: Senate Bill 549 (Obenshain) Conditional Zoning

Dear Governor McAuliffe:

On behalf of the Board of Supervisors of Hanover County, I write to request that you consider a veto of SB 549 or that you send it back to the General Assembly with amendments as proposed below.

Although several flaws contained in the original version of SB 549 have been removed or mitigated during the legislative process, it remains poorly written legislation that is not in the best interest of the residents of the Commonwealth of Virginia for the following reasons:

(1) This bill would create a new code section, Section 15.2-2303.4, with standards governing the proffers that localities can accept in residential rezoning cases that conflict with the standards contained in Sections 15.2-2298 and 15.2-2303, but these existing sections are not amended or repealed.

(2) These new standards sharply curtail the ability of developers to offer and localities to accept proffers governing on-site development and proffers for the improvement of off-site public facilities. The language in the bill even creates a presumption against the validity of such proffers by stating, in line 56 of the enrolled bill, that they “shall be deemed unreasonable unless . . . .”

(3) In lines 55 through 57, the bill provides that proffers shall be deemed unreasonable unless they address an impact that is “specifically attributable” to a proposed new residential development . . . .” This language calls into question the validity of routine proffers

providing for the dedication of right-of-way and construction of through roads, turning lanes and road widening, because these improvements will at some point serve some traffic other than that generated by the specific development under consideration.

(4) In lines 58 through 62, this bill requires that off-site public facility improvements must address a need for “improvements in excess of existing public facility capacity at the time of the rezoning . . . ,” which appears to mean that all of the existing capacity in facilities such as roads must be exhausted before developers can proffer to contribute a pro rata share of the cost of capacity improvements that will be needed as new developments are constructed. Also, once the locality has constructed the capacity improvements, newer developments could not contribute their pro rata share of those costs.

For a practical example of how this language unreasonably narrows the window during which a locality can accept proffers to improve a facility such as an intersection, imagine that you have three identical tracts of land which when developed will produce 400 homes in each and that the total impact of 1,200 new homes will require major improvements to a nearby intersection. However, if the intersection is not projected to fail with the rezoning of the first tract and the construction of the first 400 homes, then the locality cannot accept proffers for a pro rata share of the improvements. If the intersection is projected to fail during the construction of the second 400 homes, the locality can accept proffers to mitigate the costs of the intersection improvement. If the locality then proceeds to improve the intersection before the third tract comes in for rezoning, then the locality could no longer accept proffers from the development of the third tract of land and construction of the third set of 400 homes. Consequently, either the second tract of land to come in for rezoning would bear all of the costs of the intersection improvements or the existing resident taxpayers would pick up two-thirds of the cost of improvements required to serve new development. Clearly, it would be preferable if the developers and future residents of all 1,200 homes were to bear their pro rata share of the cost of the intersection improvements required to serve those new developments.

(5) In lines 71 through 75, the language of this bill undercuts the long-standing presumption of legislative validity that attaches to decisions of local governing bodies in zoning cases.

(6) In lines 76 through 77, this bill would subject the taxpayers of localities to paying the developer’s attorney’s fees and costs, if the governing body accepted proffers later determined by a court to be prohibited by the new and uncertain provisions of this bill, even if the proffers were voluntarily offered by the applicant. This provision should be stricken from the bill or, at least, should be amended to provide that the prevailing party, whether it is the applicant or the local governing body, may be awarded attorney’s fees and costs.

The Honorable Terry McAuliffe  
Governor of Virginia  
March 2, 2016 – Page Three

(7) In line 78 through 83, this bill provides that, in the event of a successful challenge to a zoning action, the court must order the local governing body to approve the rezoning, which contravenes the concept of separation of powers long recognized by the Virginia Supreme Court in zoning cases. See *Elizabeth River Crossings OpCo, LLC v. Meeks*, 286 Va. 286, 310-311 (2013) citing *Board of Supervisors v. Allman*, 215 Va. 434, 445 (1975).

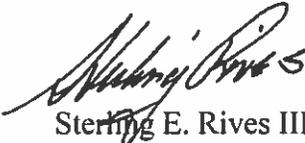
The effect of this bill will be to make it much more difficult for developers and localities to address the concerns of existing residents and to mitigate the impacts of new development. If developers cannot offer and localities cannot accept proffers reasonably calculated to offset the pro rata costs of new public facilities required to meet the demands of new development, then localities will have no choice other than to curtail new development or to pass the costs onto existing resident taxpayers.

For all of these reasons, SB 549 merits a gubernatorial veto. Recognizing, however, the margin by which SB 549 passed both the House and the Senate, the Board of Supervisors of Hanover County proposes three amendments that would make SB 549 much less harmful:

- (1) In line 57, delete the word “specifically.”
- (2) In lines 61 through 62, delete the words “in excess of existing public facility capacity at the time of rezoning or proffer condition amendment . . . .”
- (3) Delete lines 76 through 83.

The Hanover County Board of Supervisors would greatly appreciate your consideration of the comments and proposals. I am available at any time to discuss this very important matter with you or your staff, in person or by telephone at (804) 365-6035 or (804) 677-9151.

Yours very truly,



Sterling E. Rives III  
Hanover County Attorney

SER/cai

Cc: Robert “Bob” Brink, Senior Legislative Advisor

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 15.2-2303.4, relating to*  
 3 *conditional zoning.*

4 [S 549]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 15.2-2303.4 as follows:**8 **§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.**9 *A. For purposes of this section, unless the context requires a different meaning:*

10 *"New residential development" means any construction or building expansion on residentially zoned*  
 11 *property, including a residential component of a mixed-use development, that results in either one or*  
 12 *more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what*  
 13 *may be permitted by right under the then-existing zoning of the property, when such new residential*  
 14 *development requires a rezoning or proffer condition amendment.*

15 *"New residential use" means any use of residentially zoned property that requires a rezoning or that*  
 16 *requires a proffer condition amendment to allow for new residential development.*

17 *"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be*  
 18 *developed and shall include all cash proffers.*

19 *"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be*  
 20 *developed and shall not include any cash proffers.*

21 *"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a*  
 22 *property or properties.*

23 *"Public facilities" means public transportation facilities, public safety facilities, public school*  
 24 *facilities, or public parks.*

25 *"Public facility improvement" means an offsite public transportation facility improvement, a public*  
 26 *safety facility improvement, a public school facility improvement, or an improvement to or construction*  
 27 *of a public park. No public facility improvement shall include any operating expense of an existing*  
 28 *public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public*  
 29 *facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility.*  
 30 *For purposes of this section, the term "public park" shall include playgrounds and other recreational*  
 31 *facilities.*

32 *"Public safety facility improvement" means construction of new law-enforcement, fire, emergency*  
 33 *medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings,*  
 34 *structures, parking, and other costs directly related thereto.*

35 *"Public school facility improvement" means construction of new primary and secondary public*  
 36 *schools or expansion of existing primary and secondary public schools, to include all buildings,*  
 37 *structures, parking, and other costs directly related thereto.*

38 *"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement*  
 39 *or expansion of existing roads and related appurtenances as required by applicable standards of the*  
 40 *Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction,*  
 41 *improvement, or expansion of buildings, structures, parking, and other facilities directly related to*  
 42 *transit.*

43 *"Residentially zoned property" means property zoned or proposed to be zoned for either single-family*  
 44 *or multifamily housing.*

45 *"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to*  
 46 *§ 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality*  
 47 *as a whole.*

48 *B. Notwithstanding any other provision of law, general or special, no locality shall (i) request or*  
 49 *accept any unreasonable proffer, as described in subsection C, in connection with a rezoning or a*  
 50 *proffer condition amendment as a condition of approval of a new residential development or new*  
 51 *residential use or (ii) deny any rezoning application or proffer condition amendment for a new*  
 52 *residential development or new residential use where such denial is based in whole or in part on an*  
 53 *applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.*

54 *C. Notwithstanding any other provision of law, general or special, (i) as used in this chapter, a*  
 55 *proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to*  
 56 *§ 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless it addresses an*

57 impact that is specifically attributable to a proposed new residential development or other new  
58 residential use applied for and (ii) an offsite proffer shall be deemed unreasonable pursuant to  
59 subdivision (i) unless it addresses an impact to an offsite public facility, such that (a) the new  
60 residential development or new residential use creates a need, or an identifiable portion of a need, for  
61 one or more public facility improvements in excess of existing public facility capacity at the time of the  
62 rezoning or proffer condition amendment and (b) each such new residential development or new  
63 residential use applied for receives a direct and material benefit from a proffer made with respect to  
64 any such public facility improvements. For the purposes of this section, a locality may base its  
65 assessment of public facility capacity on the projected impacts specifically attributable to the new  
66 residential development or new residential use.

67 *D. Notwithstanding any other provision of law, general or special:*

68 1. Actions brought to contest the action of a locality in violation of this section shall be brought only  
69 by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition  
70 amendment pursuant to subsection F of § 15.2-2285.

71 2. In any action in which a locality has denied a rezoning or an amendment to an existing proffer  
72 and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to  
73 submit an unreasonable proffer or proffer condition amendment that it has proven was suggested,  
74 requested, or required by the locality, the court shall presume, absent clear and convincing evidence to  
75 the contrary, that such refusal or failure was the controlling basis for the denial.

76 3. In any successful action brought pursuant to this section contesting an action of a locality in  
77 violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs  
78 and to an order remanding the matter to the governing body with a direction to approve the rezoning or  
79 proffer condition amendment without the inclusion of any unreasonable proffer. If the locality fails or  
80 refuses to approve the rezoning or proffer condition amendment within a reasonable time not to exceed  
81 90 days from the date of the court's order to do so, the court shall enjoin the locality from interfering  
82 with the use of the property as applied for without the unreasonable proffer. Upon remand to the local  
83 governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

84 *E. The provisions of this section shall not apply to any new residential development or new*  
85 *residential use occurring within any of the following areas: (i) an approved small area comprehensive*  
86 *plan in which the delineated area is designated as a revitalization area, encompasses mass transit as*  
87 *defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area*  
88 *ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing*  
89 *or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and*  
90 *allows additional density within the vicinity of such existing or planned station; or (iii) an approved*  
91 *service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail*  
92 *station.*

93 2. That this act shall be construed as supplementary to any existing provisions limiting or  
94 curtailing proffers or proffer condition amendments for new residential development or new  
95 residential use that are consistent with its terms and shall be construed to supersede any existing  
96 statutory provision with respect to proffers or proffer condition amendments for new residential  
97 development or new residential use that are inconsistent with its terms.

98 3. That this act is prospective only and shall not be construed to apply to any application for  
99 rezoning filed prior to July 1, 2016, or to any application for a proffer condition amendment  
100 amending a rezoning for which the application was filed prior to that date.



## **MEMORANDUM**

**TO:** Mayor Greenlaw and Members of City Council  
**FROM:** Beverly R. Cameron, City Manager  
**DATE:** March 1, 2016  
**SUBJECT:** City Manager's Update

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Highlights of major activities and other notable developments:

***Parking Promotion Occurring Near 'Restaurant Row'*** – The 40-space lot at 904 Princess Anne Street will be free for night and weekend parking in March. This promotion is offered to encourage more use of the lot which is near the heart of "Restaurant Row" on William Street. The lot is available to the public 6 p.m. to 6 a.m., Monday through Friday, and all day on weekends and holidays. Staff members from Public Works and Economic Development and Tourism have been coordinating the promotion, which has included distributing marketing fliers to nearby restaurants, notifying the media and posts on social media. The marketing flier also points the public to the 18-space lot behind Virginia Partners Bank's headquarters, which is available to the public 6 p.m. to 8 a.m., Monday through Friday, after 12 noon on Saturday, and all day on Sunday, free of charge. Once it opens in a month or so, the lot at 1016 Charles St. will provide the public with another 46 parking spaces on weeknights and weekends. Staff will continue looking for opportunities to increase the inventory of public parking in downtown Fredericksburg. (See attached flyer for more details.)

***Dominion Virginia Power Announces Plans to Rebuild An Existing High-Voltage Transmission Line*** – Dominion Power plans to rebuild an existing high-voltage transmission line that extends approximately 34 miles from the Four Rivers Substation in Hanover County to the Fredericksburg Substation. An informational open house will take place Tuesday, March 15 from 5 – 8 p.m. at James Monroe High School to discuss the plans. No new right-of-way is necessary. The new structures will vary in height and the average for the entire line will be approximately 4 ½ feet taller than the current structures. For more information about this project, visit the Dominion website at [www.dom.com](http://www.dom.com) and search "Four Rivers." You can also send an email to [powerline@dom.com](mailto:powerline@dom.com) or call 888-291-0190 to speak with a member of the Electric Transmission team. (See attachment for more details.)

***EDT Quarterly Retail Report Shows Lower Vacancy Rates*** – The Department of Economic Development and Tourism distributed its [Quarterly Retail Report](#) on February 18. Store occupancy rates throughout the city remained solid for the 2015 third quarter. Local taxes from retail sales and meals increased. A summary of retail activity in Central Park, Eagle Village, and Downtown is included in the report.

***New City Hall Voice over IP Phone System*** – The Department of Information Technology, along with project team members from departments in City Hall, replaced the legacy analog telephone system which was no longer supported by the manufacturer. The new VoIP system is an all-in-one phone system integrating voice, email notification, instant messaging, presence notification, advanced call routing, conferencing and fax. The system operates over the City's current network and eliminates the need for costly analog phone lines, saving the City approximately \$16,000 annually in telecommunication costs. The system allows for easy expansion at a lower cost than the old system. The installation included computer software that provides each user a better overview of the status of incoming calls, call queues, caller ID, voice mail and address books. This system integrates the various departments at City Hall with Parks and Recreation, Public Facilities, Commonwealth Attorney, Information Technology, City Attorney and Fire Administration.

***Hours For The Dorothy Hart Community Center*** – Effective March 1, the Dorothy Hart Community Center will be open Monday - Thursday from 8:30 am – 8:30 pm, with registration available from 9:00 am – 8:00 pm. On Fridays, registration is available from 9:00 am – 4:00 pm, with the building closing at 4:30 pm. For more information, call the office at 372-1086 ext. 256.

***Cox Communications Awards Funding to Parks and Recreation and Public Facilities*** – Recently, Parks, Recreation and Public Facilities was awarded \$13,700 in funding from Cox Communications to support Picnic in the Park, Soap Box Derby, Children's Art Show and First Night.

***Storage Facility Leased for Fire Department and Parks, Recreation and Public Facilities*** – The Fire Department and the Department of Parks, Recreation and Public Facilities are ready to occupy a leased storage facility located on Harkness Boulevard in the Battlefield Industrial Park. The 14,500 square foot warehouse space provides ample storage for fire apparatus and other large equipment, as well as room for several small offices. Before acquiring this space, much specialized equipment had to be stored outside, unprotected from the weather.

***Sergeant Peterson Retires for Second Time from Fredericksburg Police Department*** –

Sergeant Peterson started his career with the Fredericksburg Police Department in February 1975. Paul worked as a patrol officer and general assignment detective until he was promoted to Sergeant in 1991. Paul worked as a fun-loving, hard-working, and always fair supervisor until he retired from full-time service in February 2009. After retirement, he decided to stay on as an Auxiliary Sergeant and accepted the responsibility of managing the Auxiliary Police Officer Program. Paul was an excellent supervisor for the program and has now retired from the Auxiliary Force



effective January 1, 2016. Sergeant Peterson dedicated 41 years of tireless public service to the citizens of Fredericksburg as well as service to the men and women here at the Fredericksburg Police Department. He will be sorely missed but we wish the very best in retirement.

***Fredericksburg Police Department Provides Safety Seminar for Faith-Based Organizations*** – On Thursday, February 25<sup>th</sup>, Sergeant Kuebler provided a Safety and Security Seminar to faith-based organizations in the City of Fredericksburg. Seven representatives from several organizations attended and learned about contemporary challenges to provide safety and security at their places of worship, how to identify and mitigate risks to their faith community, crime and violence prevention strategies, and how to develop a safety and security policy for their organization. The Fredericksburg Police Department will continue to offer the Safety and Security Seminar to faith-based organizations throughout the year.

***Face the River Initiative Update*** – After the committee’s presentation to council on January 26, City staff met to discuss staff involvement in the process, potential regulatory considerations, and potential next steps. The committee has continued to meet with representatives of stakeholder groups, such as the Friends of the Rappahannock to ensure that they are involved in the project. Staff met with Fredericksburg Main Street representatives on Wednesday, March 3 to further discuss the project. There is also a meeting set for Friday, March 5 with the Tri-County / City Soil and Water Commission.

# PUBLIC PARKING OPTIONS ON WEEKNIGHTS & WEEKENDS IN DOWNTOWN FREDERICKSBURG



## 1016 Charles St.

46 parking spaces will soon be available to the public in this lot at the corner of Charles and Amelia Streets weeknights and weekends. More details coming soon.

## 904 Princess Anne St.

This 40-space lot off Charles and Princess Anne Streets is available to the public 6 p.m.-6 a.m. Monday-Friday and all day on weekends. [Park here for free throughout the month of March!](#)

## 410 William St.

This 18-space lot behind Virginia Partners Bank's HQ is available to the public 6 p.m.-8 a.m. Monday-Friday, after noon on Saturday, and all day on Sunday, free of charge.

*Don't forget the many 24-7 public lots along Sophia Street including the garage at Wolfe Street, which is free for the first three hours, \$8/day maximum weekdays and \$2/day maximum weekends!*

# FOUR RIVERS-FREDERICKSBURG TRANSMISSION LINE REBUILD

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**Dominion Virginia Power is committed to providing safe and reliable energy now and in the future.**

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## **Dominion Plans To Rebuild An Existing Transmission Line**

Dominion is committed to providing safe, reliable and affordable power to customers. In order to comply with North American Electric Reliability Corporation (NERC) reliability criteria, Dominion must rebuild an existing high-voltage transmission line by 2018.

This important project will be within the existing right of way corridor that extends approximately 34 miles from the Four Rivers Substation in Hanover County to the Fredericksburg Substation in the City of Fredericksburg.

The existing transmission line in this corridor serves Hanover County, Caroline County, Spotsylvania County and the City of Fredericksburg. (*See map on reverse.*) The line was originally built as 230 kilovolt (kV), but has been operating at 115kV since 1990. After carefully analyzing load forecasts, Dominion has found that rebuilding the line to new 115kV reliability standards will continue to provide reliable electric service for customers far into the future.

This aging infrastructure must be rebuilt to ensure its continued safe and reliable operation. The existing wood H-frame structures will be replaced with new weathered steel H-frame structures. The new structures will vary in height and the average for the entire line will be approximately 4½ feet taller than the existing structures. The increase in height is due to modern reliability standards and terrain.

## **Dominion's rebuild project will:**

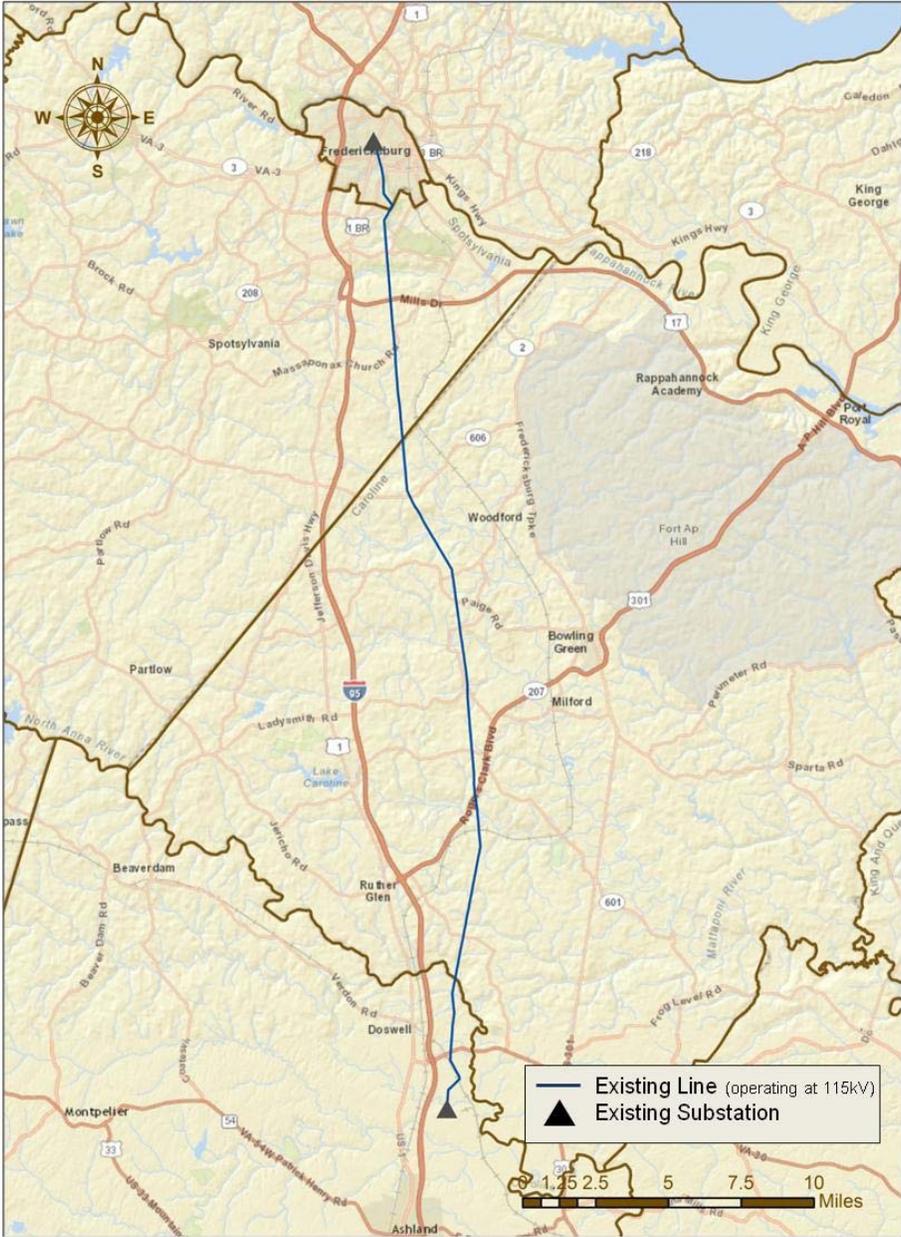
- Help strengthen the electrical grid
- Comply with mandatory NERC reliability standards
- Replace aging infrastructure
- Improve overall reliability for the community

## **Target Schedule**

<b>Summer 2015</b>	Initial outreach to local officials
<b>January/February 2016</b>	Outreach to the State Corporation Commission and local officials
<b>February 2016</b>	Public outreach and notification of intent to construct
<b>Early 2016</b>	Apply for necessary permits for construction
<b>March 2016</b>	Public open house events
<b>Spring 2016</b>	Construction scheduled to begin, pending receipt of applicable permits
<b>Summer 2018</b>	Target date for project completion

# KEEPING VIRGINIA'S POWER RELIABLE WHILE KEEPING THE IMPACTS MINIMAL

Learn about Dominion's environmental stewardship, wetlands protection and more at [www.dom.com](http://www.dom.com).



If you have further questions, please contact our Electric Transmission team by sending an email to [powerline@dom.com](mailto:powerline@dom.com) or calling 888-291-0190.





## CITY COUNCIL MEETINGS & EVENTS CALENDAR

City Hall Council Chambers, 715 Princess Anne Street, Fredericksburg, VA 22401

<b>3/8/16</b>	5:30 p.m.	Work Session <ul style="list-style-type: none"> <li>• Liberty Place Incentive</li> </ul>	Suite, Room 218
	7:30 p.m.	Regular Session <ul style="list-style-type: none"> <li>• FY17 Recommended Budget Released</li> </ul>	Chambers
<b>3/22/16</b>	5:30 p.m.	Budget Work Session	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers
<b>4/12/16</b>	5:30 p.m.	Budget Work Session	Suite, Room 218
	7:30 p.m.	Regular Session	Chambers
<b>4/19/16</b>	5:30 p.m.	Budget Work Session	Suite, Room 218
	7:00 p.m.	Budget Public Hearing	Chambers
<b>4/26/16</b>	5:30 p.m.	Budget Work Session	Suite, Room 218
	7:30 p.m.	Regular Session <ul style="list-style-type: none"> <li>• Budget First Read</li> </ul>	Chambers
<b>5/10/16</b>	5:30 p.m.	Work Session	Suite, Room 218
	7:30 p.m.	Regular Session <ul style="list-style-type: none"> <li>• Budget Second Read</li> </ul>	Chambers

