

**Work Session Agenda
Staunton City Council
Caucus Room
July 12, 2018
5:45 p.m.**

Invocation/Moment of Silence—Current

- | | | |
|------------------|--------------------|---|
| 5:45 p.m. | 1. | Consideration of Work Session and Regular Meeting Agendas |
| 5:50 p.m. | 2. | Presentation on City's Recycling Program |
| 6:00 p.m. | 3. & B. | Discussion of Cancellation of July 26, 2018 City Council Meeting |
| 6:05 p.m. | 4. & C. | Discussion of SMART SCALE Grant for Sidewalk and Pedestrian Improvement Projects |
| 6:15 p.m. | | Break |
| 6:30 p.m. | 5. | Closed Meeting for Consultation with Legal Counsel for Necessary Legal-Related Advice and Discussion Pertaining to (a) the Possible Filing of an Amicus Curiae Brief; (b) Specific Land Use and Zoning Matters; and (c) Federal Law Compliance and Legal Risk Management |
| 7:15 p.m. | | Break |

**Regular Meeting Agenda
Staunton City Council
Council Chambers
July 12, 2018
7:30 p.m.**

Call to Order

Pledge of Allegiance

Mayor's Report

Additional Items by Members of Council

Approval of Minutes

Work Session and Regular Meeting of June 14, 2018

Organizational Meeting of July 2, 2018

REGULAR MEETING

- A. Recognition of Jeanne Colvin for Years of Service to the City of Staunton**
- B. Consideration of Cancellation of July 26, 2018 City Council Meeting**
- C. Consideration of SMART SCALE Grant for Sidewalk and Pedestrian Improvement Projects**

Matters from the City Manager

Matters from the Public

Adjournment

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	July 12, 2018	City Council
Item #	1	
Ordinance #		
Department:	City Council	
Council Vision:	Responsive, Efficient Government	
Subject:	Work Session and Regular Meeting Agendas	

Background: Consistent with Procedural Memorandum No. 3, attached are draft meeting agendas for City Council's consideration and for approval as Council prefers.

Suggested Motion: I move to approve the Work Session agenda and the Regular Meeting agenda [as presented] [with the following changes: as to the Work Session, the addition/deletion of _____; as to the Regular Session, the addition/deletion of _____].

City Manager: Stephen F. Owen

**Work Session Agenda
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Matters from the City Manager

Matters from the Public

Adjournment

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	July 12, 2018	Staff Members: Tom Sliwoski Cameron McCormick
Item #	2	
Ordinance #		
Department:	Public Works Finance	
Council Vision:	Responsive, Efficient Government	
Subject:	Recycling Program Update	

Background: Global trade policies, leveling growth rates in foreign countries, and economics have all contributed to a dynamic change in the recycling market. Much of the domestic reclaimed waste is shipped overseas; however, new limits imposed by China have led to a steady decline in demand. Low oil prices have made it cheaper to produce new plastic bottles so manufacturers have no incentive to use reclaimed plastic. Packaging producers have been able to make cans and bottles thinner, resulting in significantly lower need for raw materials. Circulation of print newspaper has plummeted so the recycling industry has lost their primary customer for reclaimed paper fiber and their primary source of incoming recyclable material. The glass market has also suffered, and there is very little demand for recycled glass. All of these factors have resulted in a struggling recycling market.

The City has offered curbside recycling for residents since the early 1990s. When the curbside program first commenced, only newspaper, plastic #1 (water and soda bottles) and plastic #2 (milk and laundry detergent containers), glass (separated by color), and aluminum and tin cans were collected. A community recycling site opened shortly thereafter at Gypsy Hill Park, where residents of the City and Augusta County and City businesses could deposit newspaper and glass.

Based on repeated citizen inquiries and requests, the City began curbside collection of mixed paper (newspapers, magazines, books, white paper, cardboard, books, paperboard, etc.) and mixed plastics (#1 through #7) in 2012. The City also expanded the recycling center at the

park, adding mixed paper, mixed plastic, bi-metal/aluminum cans, and cardboard to the list of accepted materials.

All materials collected in the City are taken to Sonoco Recycling in Fishersville. This location is an initial collection site where materials are processed and readied for shipment to various states.

Current Conditions: Due to the struggling recycling market, Sonoco has implemented a new rate structure. Currently the City is not charged a rental fee or “pull” fee for any of the five collection points at the park. Beginning August 1, the five containers at the recycling center in the park will be subject to a monthly rental fee of \$75 per container per month. Additionally, the City will also be assessed a pull fee of \$100, each time a container is transported from the park to Sonoco’s facility in Fishersville. On average, the City requires 13 pulls per month. Based on current usage, the new rate structure for containers will result in additional, annual costs to the City of \$20,000.

On August 1, the City will also be subject to a revised rate structure imposed by Sonoco for materials (as distinguished from charges for the use and transport of the containers). At the present time, it is anticipated that the City will receive payment only for collected cardboard and aluminum, and not for other collected materials. For other collected materials, the City will incur charges to Sonoco (i) for mixed paper, in the amount of \$50.00 per ton, (ii) for commingled plastic, in the amount of \$60.00 per ton, and (iii) for glass, in the amount of \$32.50 per ton. During fiscal year 2017 (the most recent year for which figures are available), the City collected approximately 184 tons of materials at the park and approximately 828 tons curbside for a total tonnage of 1,012. Assuming the same tonnage in fiscal year 2019, and applying the new rate structure for materials to this tonnage, it is anticipated that the City will incur charges to Sonoco of \$8,000 per year for materials collected from the containers at the park and \$24,000 for materials collected curbside, for total charges of \$32,000.

Considering the changes in the rate structures for both use and transport of the containers and the materials, it is expected the City will incur charges to Sonoco for fiscal year 2019, in the amount of \$52,000 (inclusive of charges for both the park facility and curbside collection). The park facility will account for \$28,000 of that total (\$20,000 for use and transport of the containers and \$8,000 for materials). All figures assume no further changes in the recycling market or increases in tonnage collected. For fiscal year 2017 (again, the most recent year for which figures are available), charges incurred to Sonoco totaled \$3,100.

Conclusion: The recycling program in the City is not intended to be a revenue generator. While there is an additional burden now placed on the program, management believes the costs can be absorbed through the spring of 2019. Staff will continue to monitor the recycling program, reviewing alternatives that are more efficient and effective with the goal of maintaining a strong program and reducing the costs to the City. Management intends to readdress the program with Council during the fiscal year 2020 budget process to determine whether any rate structure or program adjustments are necessary.

City Manager’s Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Stephen F. Owen

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	July 12, 2018	Staff Member: Steve Rosenberg
Item #	3 & B	
Ordinance #		
Department:	City Manager	
Council Vision:	Responsive, Efficient Government	
Subject:	Cancellation of July 26, 2018 City Council Meeting	

Background: By adoption of a resolution dated July 1, 2018, City Council established its meeting schedule for fiscal years 2019 and 2020. The schedule includes a meeting on Thursday, July 26, 2018. Department heads have indicated that they will have no matters requiring City Council action at the July 26 meeting. Accordingly, it is recommended that Council consider cancellation of its regular meeting on that date. State law requires the adoption of a resolution to cancel the meeting. A proposed resolution is attached.

City Manager's Recommendation: City Council discuss and consider the proposed resolution canceling City Council's July 26 meeting.

Suggested Motion: I move to adopt the proposed resolution cancelling City Council's July 26, 2018 meeting.

City Manager: Stephen F. Owen

**RESOLUTION
CANCELLING THE JULY 26, 2018
CITY COUNCIL MEETING**

WHEREAS, according to its July 1, 2018 resolution, Council established its regular meeting schedule for the period of July 2018 through June 2020;

WHEREAS, Section 6 of Chapter II of the Charter for the City of Staunton provides that Council shall meet at such times as may be prescribed by ordinance or resolution provided that it hold at least one regular meeting each month;

WHEREAS, Section 2.10.070 of the Staunton City Code provides that Council will hold regular meetings on the second and fourth Thursday of each month and at any other time to which it may be regularly adjourned or postponed; and

WHEREAS, Council had determined that it would serve the best interests of the City to cancel its July 26 meeting;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Staunton, Virginia that its regularly scheduled July 26 meeting shall be and hereby is cancelled, with Council next reconvening at its regularly scheduled meeting on August 9, 2018, at 7:30 p.m., or at such time as may be designated by published agenda for such meeting, to be held at City Hall, 116 West Beverley Street, Staunton, Virginia; and that the Clerk of Council is directed to post an attested copy of this resolution at such location in City Hall where official notices are posted and to take such further actions as deemed appropriate to give notice of this change.

Adopted this 12th day of July, 2018.

Carolyn W. Dull, Mayor

ATTEST: _____
Suzanne F. Simmons, Clerk of Council

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	July 12, 2018	Staff Member: Nickie Mills
Item #	4 & C	
Ordinance #		
Department:	Community Development—Engineering	
Council Vision:	Responsive, Efficient Government Built Environment	
Subject:	SMART SCALE Grant for Sidewalk and Pedestrian Improvement Projects	

Background: City staff are working on Virginia Department of Transportation (VDOT) SMART SCALE grant funding applications for multiple sidewalk projects along Edgewood Road and Augusta Street. These projects would provide pedestrian access and safety enhancements at key intersections and new sidewalks along one side of each street, consistent with the recently adopted Staunton Bicycle & Pedestrian Plan. The projects are expected to fit within existing rights-of-way. Preliminary cost estimates have been prepared for each project based on schematic design only.

The proposed projects include:

- Edgewood Road between Coalter Street and Augusta Street. The preliminary estimated cost is \$350,000.
- North Augusta Street, from the United States Post Office on Augusta Street northward to Terry Court Shopping Center. This segment will require some drainage improvements and is estimated to cost approximately \$800,000.
- North Augusta Street, from a location just north of Terry Court Shopping Center, running along North Augusta Street to Baldwin Drive, then across to Coalter Street and connecting to Meadowbrook Road. This segment is estimated to cost approximately \$500,000.

The total estimated project cost for the three projects is expected to be approximately \$1,650,000, subject to adjustment once detailed designs are completed.

If the City receives SMART SCALE funding, as requested, it will be required to pay approximately 0.5% in administrative costs for VDOT staff time to administer the projects. Based on the current total estimated project cost, the City's commitment would amount to less than \$10,000.

The following documents are attached to this briefing:

- exhibits showing each project;
- resolutions adopted by the Staunton-Augusta-Waynesboro Metropolitan Planning Organization, at its meeting on June 6, 2018, endorsing the city's application for SMART SCALE funding; and
- a proposed resolution for Council's consideration concerning the projects and the City's application for funding.

City Manager's Recommendation: Recommend that City Council adopt the proposed resolution, as presented.

Suggested Motion: I move that Council adopt a resolution authorizing staff to apply to the Virginia Department of Transportation for a grant from the SMART SCALE Grant Program, in the amount of \$1,650,000, for funding for sidewalk and pedestrian improvements on Edgewood Road and Augusta Street, and surrounding areas, as proposed.

City Manager: Stephen F. Owen

Proposed Sidewalk Improvements to Edgewood Ave.



Legend

- Pedestrian Crosswalk
- Pedestrian Crossing with Lighted Signs
- ADA Pedestrian Signals & Crosswalks
- Sidewalk
- Stormwater System

1 inch = 125 feet

0 125 250 500 Feet

INSET



1 inch = 125 feet

Proposed Sidewalk Improvements to N. Augusta St.





**Staunton Augusta
Waynesboro**
Metropolitan Planning
Organization

112 MacTanly Place
Staunton, VA 24401

Phone (540) 885-5174
Fax (540) 885-2687

RESOLUTION IN SUPPORT OF THE CITY OF STAUNTON'S SMART SCALE ROUND 3 APPLICATION FOR SIDEWALK IMPROVEMENTS ALONG EDGEWOOD ROAD BETWEEN NORTH COALTER STREET AND NORTH AUGUSTA STREET

WHEREAS, the Staunton-Augusta-Waynesboro Metropolitan Planning Organization (SAWMPO) is the designated regional transportation planning organization, and has the responsibility for developing and carrying out a continuing, cooperative, and comprehensive transportation planning process for the Metropolitan Planning Area; and

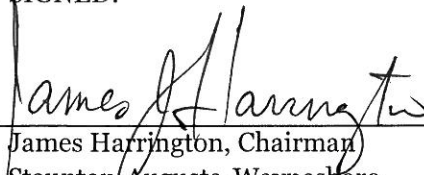
WHEREAS, the City of Staunton intends to submit a SMART SCALE Round 3 application install sidewalks and associated improvements on Edgewood Road from North Coalter Street to North Augusta Street, which will improve non-motorized connectivity, pedestrian safety, and mobility choices by expanding the City of Staunton's sidewalk network; and

WHEREAS, this project is not included in the SAWMPO Constrained Long Range Plan and this resolution meets the SMART SCALE Policy Guide requirements for public review of project applications;

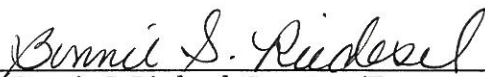
NOW, THEREFORE, BE IT RESOLVED that the SAWMPO Policy Board does hereby endorse the City of Staunton's application to make sidewalk improvements on Edgewood Road from the North Coalter Street to North Augusta Street to compete for state and federal funding under the SMART SCALE Round 3 Program.

Signed this 6th day of June 2018.

SIGNED:


James Harrington, Chairman
Staunton-Augusta-Waynesboro
Metropolitan Planning Organization
Policy Board

ATTEST:


Bonnie S. Riedesel, Secretary/Treasurer
Staunton-Augusta-Waynesboro
Metropolitan Planning Organization
Policy Board



**Staunton Augusta
Waynesboro**
Metropolitan Planning
Organization

112 MacTanly Place
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RESOLUTION IN SUPPORT OF THE CITY OF STAUNTON'S SMART SCALE ROUND 3 APPLICATION FOR SIDEWALK IMPROVEMENTS ALONG NORTH AUGUSTA STREET FROM LAMBERT STREET TO HARPER COURT

WHEREAS, the Staunton-Augusta-Waynesboro Metropolitan Planning Organization (SAWMPO) is the designated regional transportation planning organization, and has the responsibility for developing and carrying out a continuing, cooperative, and comprehensive transportation planning process for the Metropolitan Planning Area; and

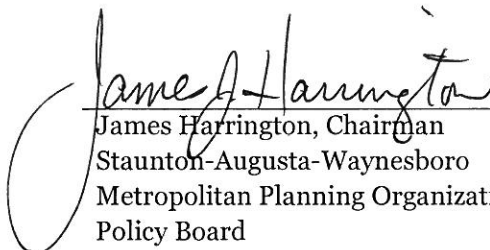
WHEREAS, the City of Staunton intends to submit a SMART SCALE Round 3 application install sidewalks and associated improvements on North Augusta Street from Lambert Street to Harper Court, which will improve non-motorized connectivity, pedestrian safety, and mobility choices by expanding the City of Staunton's sidewalk network; and

WHEREAS, this project is not included in the SAWMPO Constrained Long Range Plan and this resolution meets the SMART SCALE Policy Guide requirements for public review of project applications;

NOW, THEREFORE, BE IT RESOLVED that the SAWMPO Policy Board does hereby endorse the City of Staunton's application to make sidewalk improvements on North Augusta Street from Lambert Street to Harper Court to compete for state and federal funding under the SMART SCALE Round 3 Program.

Signed this 6th day of June 2018.

SIGNED:


James Harrington, Chairman
Staunton-Augusta-Waynesboro
Metropolitan Planning Organization
Policy Board

ATTEST:


Bonnie S. Riedesel, Secretary/Treasurer
Staunton-Augusta-Waynesboro
Metropolitan Planning Organization
Policy Board



**Staunton Augusta
Waynesboro**
Metropolitan Planning
Organization

112 MacTanly Place
Staunton, VA 24401

Phone (540) 885-5174
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RESOLUTION IN SUPPORT OF THE CITY OF STAUNTON'S SMART SCALE ROUND 3 APPLICATION TO ADD AND IMPROVE SIDEWALKS ON NORTH AUGUSTA STREET FROM HARPER COURT TO MEADOWBROOK ROAD

WHEREAS, the Staunton-Augusta-Waynesboro Metropolitan Planning Organization (SAWMPO) is the designated regional transportation planning organization, and has the responsibility for developing and carrying out a continuing, cooperative, and comprehensive transportation planning process for the Metropolitan Planning Area; and

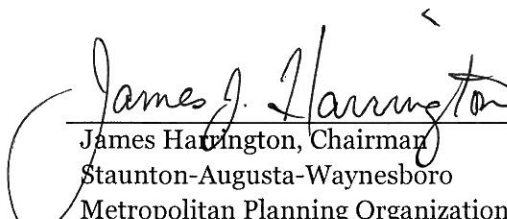
WHEREAS, the City of Staunton intends to submit a SMART SCALE Round 3 application to install sidewalks and make improvements on North Augusta Street from Harper Court to Meadowbrook Road, which improves the City of Staunton's non-motorized transportation network by expanding non-motorized connectivity and mobility choices, and improving pedestrian safety; and

WHEREAS, this project is not included in the SAWMPO Constrained Long Range Plan and this resolution meets the SMART SCALE Policy Guide requirements for public review of project applications;

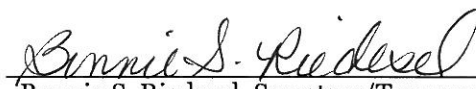
NOW, THEREFORE, BE IT RESOLVED that the SAWMPO Policy Board does hereby endorse the City of Staunton's application to make sidewalk improvements on North Augusta Street from Harper Court Shopping Center to Meadowbrook Road to compete for state and federal funding under the SMART SCALE Round 3 Program.

Signed this 6th day of June 2018.

SIGNED:


James Harrington, Chairman
Staunton-Augusta-Waynesboro
Metropolitan Planning Organization
Policy Board

ATTEST:


Bonnie S. Riedesel, Secretary/Treasurer
Staunton-Augusta-Waynesboro
Metropolitan Planning Organization
Policy Board

SMARTSCALE 2018 GRANT PROGRAM RESOLUTION

WHEREAS, the City of Staunton desires to submit an application for a grant of funds from the Virginia Department of Transportation (the "Department"), in the total amount of \$1,650,000, with a local administrative cost match of approximately 0.5%, from the SMART SCALE Grant Program to fund the cost of the City's Edgewood and Augusta Street Sidewalk and Pedestrian Improvement Projects as presented to City Council on July 12, 2018; and

WHEREAS, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the City requesting that the Department establish a SMART SCALE grant project to be administered by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STAUNTON, VIRGINIA, THAT:

1. The City requests the Commonwealth Transportation Board to establish a project for the Edgewood and Augusta Street Sidewalk and Pedestrian Improvement Projects as presented to City Council on July 12, 2018, with an allocation of funds of \$1,650,000.

2. The City commits to provide approximately 0.5% administrative cost support contribution for this project and any additional funds necessary to complete the project.

3. The City agrees to enter into a project administration agreement with the Department and provide the necessary oversight to ensure the project is developed in accordance with all state and federal requirements for design, right-of-way acquisition and construction of a federally funded transportation project.

4. The City will be responsible for maintenance and operating costs of any improvement/facility constructed with SMART SCALE funds unless other arrangements have been made with the Department.

5. If the City subsequently elects to cancel this project, the City agrees to reimburse the Department for the total amount of costs expended by the Department through the date the Department is notified of such cancellation. The City also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration.

6. The Council of the City of Staunton, Virginia grants authority to the City Manager to execute project agreements, and amendments to project agreements, for the above referenced Edgewood and Augusta Street Sidewalk and Pedestrian Improvement Projects.

Adopted this 12th of July, 2018.

Carolyn W. Dull, Mayor

ATTEST: _____
Suzanne F. Simmons, Clerk of Council

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	July 12, 2018	Doug Guynn City Attorney
Item #	5	
Ordinance #		
Department:	City Attorney	
Subject:	Closed Meeting for Consultation with Legal Counsel for Necessary Legal-Related Advice and Discussion Pertaining to (a) the Possible Filing of an Amicus Curiae Brief; (b) Specific Land Use and Zoning Matters; and (c) Federal Law Compliance and Legal Risk Management	

Suggested Motion:

Before the closed meeting: I move to enter a closed meeting for consultation with legal counsel for necessary legal-related advice and discussion pertaining to (a) the possible filing of an amicus curiae brief; (b) specific land use and zoning matters; and (c) federal law compliance and legal risk management, pursuant to Virginia Code § 2.2-3711(A)(8).

Second. Discussion. Vote – Clerk of Council to poll members of Council.

After the closed meeting: I move that Council reconvene in an open meeting and certify to the best of each member's knowledge that only lawfully exempted public business matters were discussed and that only public business matters as identified in the closed meeting motion were heard, discussed or considered in the meeting.

Second. Discussion. Vote –Clerk of Council to poll members of Council.

City Council
WORK SESSION
June 14, 2018
5:30 p.m.

Council Members Present: Mayor Dull, Vice Mayor Kier, Council Members Curren, Oakes, Harrington, Holmes, and Obenshain.

The Mayor called the meeting to order at 5:30 p.m. and the invocation/moment of silence was given by Ms. Oakes.

1. Consideration of Work Session and Regular Meeting Agendas

Consistent with Procedural Memorandum No. 3, amended by Council at its organization meeting on July 1, 2016, the agendas were presented for Council consideration.

Dr. Harrington moved to approve the Work Session agenda and the Regular Meeting agenda as presented.

The motion was seconded by Mr. Holmes and carried unanimously as follows:

Mr. Obenshain	aye	Mayor Dull	aye
Mr. Holmes	aye	Dr. Curren	aye
Dr. Harrington	aye	Ms. Oakes	aye
Vice Mayor Kier	aye		

2. Discussion of SunTrust Bank Resolution Authorizing Signatures

Jeanne Colvin, Chief Financial Officer, stated since March 1, 2014, SunTrust Bank has served as the City's master depository for all City funds and provides additional accounts for the City and School clearing accounts for payroll, accounts payable checks, and ACH transactions for the self-funded health insurance account. She noted that due to increased internal control procedures, and a re-organization of the City Finance Department, effective July 1, 2018, the City will need to authorize the appropriate finance and treasurer's office staff members to conduct banking business on behalf of the City with SunTrust Bank, as her name will be removed.

Ms. Colvin stated at Council's organizational meeting on July 2, 2018, Council will need to adopt a Deposit Account Resolution and Authorization for Business Entities form authorizing Cameron S. McCormick, Interim Director of Finance, as the contract administrator for the SunTrust Bank contract. She also identified the authorized signers on the various accounts.

3. Discussion of Modification of Transaction with Raelsa I, LLC/Property Located at 120 South Augusta Street (PID 100621)

Steve Owen, City Manager, stated that at Councilman Curren's request, Laurie Berman, principal of Raelsa I, LLC (Company), attended Council's work session on May 24, 2018, and requested that Council consider an extension of a deadline to which the City and the Company agreed previously.

Mr. Owen noted, in 2014, the Company acquired the historic property located at 120 South Augusta Street (former Historic Staunton Foundation offices). He noted that, in 2016, the City conveyed to the Company two relatively small portions of adjoining City property—one containing 152 square feet and the other containing 772 square feet—and other various privileges, all to promote the revitalized use and expansion of improvements on the Company's property. The Company also assumed an obligation to construct a public sidewalk adjacent to the Company's property. The deed between the City and the Company provides that if the Company fails to complete its project by August 1, 2018, the interests conveyed by the City to the Company automatically revert to the City.

Mr. Owen stated that during the May 24, 2018 work session Ms. Berman had explained the project delays, provided the current status of the project and requested an 18-month extension of the date for completion of the project, to which Council was favorably disposed. Mr. Owen noted that the extension was ready for consideration by Council.

Mayor Dull informed Council members this was basically the same agreement the City held previously with the difference being the 18-month extension and change of dates.

Mr. Guynn stated there were some conditions attached to that extension which were included in the briefing.

This will be Item B on the regular agenda.

4. Presentation Concerning U.S. Department of Housing and Urban Development-CDBG Entitlement Program for the City of Staunton

Billy Vaughn, Director of Economic Development, stated in May, 2013, the U.S. Department of Housing and Urban Development (HUD) notified the City that it had been identified as a potential Community Development Block Grant (CDBG) entitlement city. Since that initial offering, the City has annually deferred the entitlement offer, electing to continue to participate in the Virginia CDBG competitive program. Mr. Vaughn noted staff had prepared a report which reviewed the HUD entitlement program as it relates to the City's opportunity to enter the program. He stated Mr. Owen felt it would be prudent to engage with a locality that is currently within the HUD entitlement program.

Mr. Vaughn recognized Mr. Ande Banks, Deputy City Manager for Harrisonburg, whom he had invited to make a presentation to Council about details of the HUD program. Mr. Banks explained how the CDGB entitlement program provided annual grants on a formula basis to assist communities with providing decent housing and a suitable living environment, as well as expanding economic opportunities for low- and moderate-income persons. He gave examples of how Harrisonburg provided assistance to various non-profit groups within the city as well as public facilities. Mr. Banks noted funds may also be used to carry out activities which aid in the prevention or elimination of slums or blight.

Mr. Banks noted the community is permitted to spend no more than 20 % of the CDBG grants for planning and administration expenses.

Dr. Harrington asked if accepting the funds would make the City ineligible for other sources of similar project funding. Mr. Banks replied the City would forego the opportunity of being able to compete for state community development block grant dollars.

Mr. Banks gave examples to Vice Mayor Kier regarding specific programs that Harrisonburg had funded.

Ms. Oakes asked for clarification on whether the program would affect the local community action partnership regarding TANF funding. Mr. Banks replied they were two different departments with two different funding streams so that TANF funding should not be affected.

Dr. Harrington asked how the decision is made on distribution of funds. Mr. Banks explained that Harrisonburg had formed a selection committee, which includes a Council representative, to consider applications.

Mayor Dull questioned the need to have a full-time administrative position. Mr. Banks stated there would be a fair amount of office work involved, but possibly not a need for daily oversight. Mayor Dull asked if Harrisonburg had ever considered dropping out of the program to allow the flexibility of going back to the competitive process. Mr. Banks replied the city had not as it represented good projects.

Mr. Holmes asked if funds could be applied towards the schools or apply towards a grant. Mr. Banks stated CDBG dollars could not be used as a federal match for a federal grant.

Mr. Obenschain asked if county residents would be able to receive CDBG funds. Mr. Banks replied the dollars stopped at the city-county line.

Mr. Owen stated this could be presented again at a future meeting before the deadline to apply in order for Council to receive more information.

5. Presentation of Augusta-Staunton-Waynesboro Ten Year Career and Technical Education Strategic Plan 2018-2028

Billy Vaughn, Director of Economic Development, stated the Career and Technical Education Strategic Plan is a collaboration of Valley Career and Technical Center, Shenandoah Valley Partnership, Blue Ridge Community College, Shenandoah Valley Workforce Development Board, Wilson Workforce Rehabilitation Center, local economic developers, key stakeholders from the local schools, and major employers in the area.

Mr. Vaughn introduced Camille Miller, President of The Virginia Group and project consultant. Ms. Miller gave a presentation to Council members explaining the intent and process of developing the Strategic Plan. The most important factor contributing to employers' long-term success is access to a well-trained workforce. She noted students from middle school should receive career exploratory training. Ms. Miller stated a lot of the equipment available to the students is not close to current standards and needs to be modernized.

Ms. Miller spoke on goals, objectives, and strategies for the plan. She noted the future of the workforce and how to promote the programs to students, schools, and employers.

6. **Closed Meeting for Consultation with Legal Counsel for Necessary Legal-Related Advice and Discussion Pertaining to (a) the Possible Filing of an Amicus Curiae Brief; (b) Specific Land Use and Zoning Matters; and (c) Federal Law Compliance and Legal Risk Management**

Ms. Oakes moved to enter a closed meeting for consultation with legal counsel for necessary legal-related advice and discussion pertaining to (a) the possible filing of an amicus curiae brief; (b) specific land use and zoning matters; and (c) federal law compliance and legal risk management, pursuant to Virginia Code § 2.2-3711(A)(8).

Seconded by Mr. Holmes, the motion as follows:

Dr. Curren	aye	Vice Mayor Kier	aye
Mr. Holmes	aye	Mayor Dull	aye
Dr. Harrington	aye	Ms. Oakes	aye
Mr. Obenschain	aye		

Ms. Oakes moved that Council reconvene in an open meeting and certify to the best of each member's knowledge that only lawfully exempted public business matters were discussed and that only public business matters as identified in the closed meeting motion were heard, discussed or considered in the meeting.

Seconded by Mr. Holmes, the motion as follows:

Mr. Holmes	aye	Mayor Dull	aye
Dr. Harrington	aye	Ms. Oakes	aye
Mr. Obenschain	aye	Dr. Curren	aye
Vice Mayor Kier	aye		

The work session adjourned at 7:28 p.m.

Suzanne F. Simmons
Clerk of Council

REGULAR MEETING OF STAUNTON CITY COUNCIL
Thursday, June 14, 2018
7:30 p.m.
Council Chambers

PRESENT: **Carolyn W. Dull, Mayor**
 Ophie A. Kier, Vice Mayor
 Andrea W. Oakes
 James L. Harrington
 R. Terry Holmes
 Erik D. Curren
 Walter J. Obenschain

ALSO PRESENT: **Stephen F. Owen, City Manager**
 Douglas L. Guynn, City Attorney
 Suzanne F. Simmons, Clerk of Council

Mayor Dull called the meeting to order. The Pledge of Allegiance was recited in unison.

MAYOR'S REPORT

Mayor Dull read a letter from the Augusta Garden Club commending Matt Sensabaugh, City Horticulturist, for his work on Project Dogwood. Mayor Dull thanked the Augusta Garden Club for supplying dogwood trees to be planted throughout the City.

Mayor Dull gave special recognition to Councilman Obenschain with a Certificate of Appreciation for serving the past four years on City Council.

Fellow Council members and Doug Guynn, City Attorney, paid tribute to Mr. Obenschain for his time served on the Staunton School Board as well as City Council.

Mr. Obenschain thanked the citizens of Staunton for allowing him the opportunity to serve on Council. He also thanked City staff, Council members, and his family.

ADDITIONAL ITEMS BY MEMBERS OF COUNCIL

Vice Mayor Kier moved to make the following appointments:

Redevelopment and Housing Authority – to appoint Vickie Painter to fill the unexpired term of Kenneth Venable beginning July 1, 2018, and expiring February 28, 2021.

Landscape Advisory Board – to reappoint Dennis Hastert and Matthew Shreckhise to a three-year term beginning July 1, 2018, and expiring June 30, 2021.

Recreational Advisory Commission – to reappoint Amy Darby and Bruce Rupert to a three-year term beginning July 1, 2018, and expiring June 30, 2021.

Valley Community Services Board – to reappoint John Hartless to a three-year term beginning July 1, 2018, and expiring June 30, 2021.

Historic Preservation Commission – To reappoint David Brown to a three-year term beginning July 1, 2018, and expiring June 30, 2021

The motion was seconded by Mr. Holmes and carried unanimously as follows:

Mr. Obenschain	aye	Vice Mayor Kier	aye
Dr. Curren	aye	Mayor Dull	aye
Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye		

Vice Mayor Kier moved that Council's action of May 24, 2018, be modified such that Joanie Eiland's appointment to the Blue Ridge Community College board be for the unexpired portion of the term of office of Linda Reviea, for a term commencing on May 31, 2018, and expiring on June 30, 2021.

The motion was seconded by Dr. Harrington and carried unanimously as follows:

Dr. Curren	aye	Mayor Dull	aye
Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye	Mr. Obenschain	aye
Vice Mayor Kier	aye		

Dr. Harrington offered a motion that an item be added to the agenda of a resolution of the Council of the City of Staunton, Virginia to authorize appeal of variance decision of the Staunton Board of Zoning Appeals.

The motion was seconded by Dr. Curren and carried unanimously as follows:

Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye	Mr. Obenschain	aye
Vice Mayor Kier	aye	Dr. Curren	aye
Mayor Dull	aye		

APPROVAL OF MINUTES

Ms. Oakes moved to approve the work session and regular meeting minutes of May 24, 2018.

The motion was seconded by Mr. Holmes and carried unanimously as follows:

Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye	Mr. Obenschain	aye
Vice Mayor Kier	aye	Dr. Curren	aye
Mayor Dull	aye		

REGULAR MEETING

A. Public Hearing and Consideration of Ordinance to Amend the FY2018 Budget Ordinance for the City of Staunton by Adding Budget Amendment Number Two

Jeanne Colvin, Chief Financial Officer, stated the second budget amendment for fiscal year 2018 has been prepared for City Council's review and discussion. The total budget amendment equals \$3,192,424. It involves amendments for both the City and School funds. The ordinance was introduced at Council's May 24, 2018 meeting. A public hearing is scheduled for Council's meeting tonight, as is Council's consideration of the ordinance.

Ms. Colvin stated the total General Fund amendment is \$425,334, and explained further details of the General Fund amendment as well as amendments to other funds, as shown in the proposed ordinance.

Ms. Colvin also summarized the School Budget amendments totaling \$1,008,239, including amendments to the Education Fund, the Cafeteria Fund, the Textbook Fund and the School Capital Improvement Fund.

Ms. Colvin stated this was a public hearing and had been advertised in *The News Leader* on June 4, 2018.

The Public Hearing was opened.

There being no one wishing to speak, the Public Hearing was closed.

Dr. Curren moved to adopt an ordinance amending the fiscal year 2018 budget by adding Budget Amendment Number Two, totaling \$3,192,424.

The motion was seconded by Ms. Oakes and carried unanimously as follows:

Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye	Mr. Obenschain	aye
Vice Mayor Kier	aye	Dr. Curren	aye
Mayor Dull	aye		

(SEE ATTACHMENT 1)

B. Consideration of Modification of Transaction with Raelsa I, LLC/Property Located at 120 South Augusta Street (PID 100621)

Steve Owen, City Manager, stated, in 2014, Raelsa I, LLC acquired 120 South Augusta Street (former Historic Staunton Foundation offices) with the intention of completing a renovation of the building. In 2016, the City conveyed to Raelsa I, LLC small parts of City-owned property on two sides, for a deck hangover and a public sidewalk. Mr. Owen noted there was a condition that the project needed to be completed by August 1, 2018, and that that condition would not be satisfied due to various delays that the company explained to Council by letter and also by a presentation at Council's work session on May 24, 2018. Council members, after hearing the presentation, indicated their interest in providing an 18-month extension, as requested. Mr. Owen stated there was a motion for Council's consideration which would approve the 18-month extension until February 1, 2020, with certain conditions.

Mr. Holmes moved that (i) City Council approve an 18-month extension, to and including February 1, 2020, of the deadline for construction and renovations of the property located at 120 South Augusta Street, as set forth in section 7 of the recorded deed, provided Raelsa I, LLC applies for and obtains from the City all required building permits on or before July 26, 2018, and (ii) upon satisfaction of such condition, the City Attorney be authorized to prepare (in consultation with Raelsa I, LLC's legal counsel), and the City Manager be authorized to execute, an instrument suitable for recordation, evidencing the extension.

The motion was seconded by Dr. Curren and carried unanimously as follows:

Ms. Oakes	aye	Mr. Obenschain	aye
Vice Mayor Kier	aye	Dr. Curren	aye
Mayor Dull	aye	Mr. Holmes	aye
Dr. Harrington	aye		

C. Resolution of the Council of the City of Staunton, Virginia to Authorize Appeal of Variance Decision of the Staunton Board of Zoning Appeals

Doug Guynn, City Attorney, noted that, without waiving the attorney-client privilege regarding the confidentiality that obtains as to their discussions in a closed meeting, Council discussed with outside legal counsel and with him the matter of the recent decision by the Board of Zoning Appeals to grant a variance from the Staunton City Code's zoning provisions. Mr. Guynn further noted, during that conversation, he provided advice to Council as well as outside counsel. He stated before Council is a proposed resolution of the Council of the City of Staunton, Virginia to Authorize Appeal of Variance Decision of the Staunton Board of Zoning Appeals. He then reviewed highlights of the proposed resolution. Mr. Guynn recommended adoption of the resolution.

Mayor Dull observed there is no public hearing on the resolution.

Dr. Harrington moved that City Council adopt the proposed resolution with attached exhibits authorizing appeal of the June 12, 2018 variance decision of the Staunton Board of Zoning Appeals.

The motion was seconded by Dr. Curren.

Ms. Oakes stated her comments would probably trigger additional comments by Council. She stated this particular issue had been going on for over 10 years, and it does not appear to her that there's going to be an end to it and could very well go on for another 10 years. She noted she understood that Council needs to be responsible to the citizens when it comes to setting a precedent but felt every case needed to be looked at case by case with every case being different. Ms. Oakes stated this particular situation was very unfortunate on both sides from the very beginning. She noted Council does have a responsibility to set a precedent; however, Council also has a responsibility to be good stewards of the taxpayers of Staunton. Ms. Oakes stated she felt it was time to put an end to the issue. She noted she made those comments because she feels the citizens have a right to know where she stands on the issue and how she will be voting.

Dr. Curren stated he felt this appeal goes beyond this case and that it would set a very dangerous precedent to make an exception to the duly passed laws and that Council has a responsibility to

the citizens and to the rule of law to stand behind the laws that are on the books. Dr. Curren stated if this requires patience, then so be it, that is why Council is here.

The motion carried as follows:

Mayor Dull	aye	Mr. Holmes	aye
Vice Mayor Kier	aye	Ms. Oakes	no
Dr. Curren	aye	Mr. Obenschain	aye
Dr. Harrington	aye		

(SEE ATTACHMENT 2)

Matters from the City Manager

Mr. Owen stated his recent vacation was the longest departure he's ever had in his work career since he was 12 years old. He noted how he enjoyed working with Mr. Obenschain and appreciated his service to the City.

Matters from the Public

Baldwin Jennings, 332 Sharon Lane, stated he did not agree with the resolution presented to appeal the variance decision by the BZA. He expressed appreciation to Mr. Obenschain for his service to the City.

Sonny Cubbage, 2618 N. Augusta Street, stated he was upset with Council regarding the issue over the BZA variance being appealed. He felt the matter had gone on too long and was being too costly to the citizens of Staunton.

There was no one else wishing to speak. Mayor Dull stated she felt compelled to make two comments regarding Mr. Cubbage's comments. She inquired where he came up with a figure of \$100,000 and stated that was not an accurate figure. Also, she stated she was looking out for the tens of thousands of Stauntonians because the City does not want to have laws that only apply to people who don't have money or power. Mayor Dull stated it was a very clear ordinance and noted other citizens were out of compliance, and they worked with the City and came into compliance.

There was no one else wishing to speak.

Vice Mayor Kier stated when laws are made, when hearings are held, when the BZA was overturned by the circuit court, yet they came back again, then Council does their job and will continue to do their job as long as they are here. He stated that is what they are paid for and that is what the citizens want and will not allow one person, that can afford to fight for 11 years, to continue to fight while the rest of the citizens comply.

Ms. Oakes asked that the meeting be closed.

Adjournment

There being no further business to come before Council, the meeting adjourned at 8:23 p.m.

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Suzanne F. Simmons
Clerk of Council

DRAFT

Ordinance No. 2018- 12
AN ORDINANCE TO AMEND
THE FY 2018 BUDGET ORDINANCE
FOR THE CITY OF STAUNTON
BY ADDING BUDGET AMENDMENT NUMBER TWO

BE IT ORDAINED, by the City Council of the City of Staunton, Virginia, that the FY2018 Budget is amended as follows:

GENERAL FUND

<u>Anticipated Revenue</u>		
General Revenue	\$	352,000
General Property Taxes		7,275
Recovered Costs		42,580
Other Local Taxes		14,725
Capital Grants and Contributions		8,754
Total Revenue	\$	425,334
<u>Appropriations</u>		
Judicial Administration	\$	2,554
Public Safety		25,050
Public Works		25,730
Community Development		22,000
Transfer to the Capital Improvements Fund		350,000
Total Appropriations	\$	425,334

GRANTS FUND

<u>Anticipated Revenue</u>		
Capital Grants and Contributions	\$	23,773
Total Revenue	\$	23,773
<u>Appropriations</u>		
Judicial Administration	\$	23,491
Public Safety		282
Total Appropriations	\$	23,773

CAPITAL IMPROVEMENTS FUND

<u>Anticipated Revenue</u>		
General Revenues	\$	40,111
Total Revenue	\$	40,111
<u>Appropriations</u>		
Capital Projects	\$	40,111
Total Appropriations	\$	40,111

WATER FUND

<u>Anticipated Revenue</u>		
General Revenues	\$	48,500
Total Revenue	\$	48,500
<u>Appropriations</u>		
Debt	\$	48,500
Total Appropriations	\$	48,500

WATER CIP FUND**Anticipated Revenue**

General Revenues	\$	(400,000)
Total Revenue	\$	(400,000)

Appropriations

Debt	\$	(400,000)
Total Appropriations	\$	(400,000)

SEWER FUND**Anticipated Revenue**

General Revenues	\$	20,441
Total Revenue	\$	20,441

Appropriations

Debt	\$	20,441
Total Appropriations	\$	20,441

SEWER CIP FUND**Anticipated Revenue**

General Revenues	\$	(165,000)
Total Revenue	\$	(165,000)

Appropriations

Debt	\$	(165,000)
Total Appropriations	\$	(165,000)

PARKING FUND**Anticipated Revenue**

General Revenues	\$	2,191,026
Total Revenue	\$	2,191,026

Appropriations

Capital	\$	2,191,026
Total Appropriations	\$	2,191,026

EDUCATION FUND**Anticipated Revenue**

General Revenue	\$	449,500
Capital Grants and Contributions		23,250
Total Revenue	\$	472,750

Appropriations

Operations	\$	469,139
Transfer to the Textbook Fund		3,611
Total Appropriations	\$	472,750

TEXTBOOK FUND**Anticipated Revenue**

Capital Grants and Contributions	\$	2,239
Transfer from the Education Fund		3,611
Total Revenue	\$	5,850

Appropriations

Operations	\$	5,850
Total Appropriations	\$	5,850

CAFETERIA FUND

Anticipated Revenue

Capital Grants and Contributions	\$	23,494
General Revenues		<u>6,145</u>
Total Revenue	\$	29,639

Appropriations

Operations	\$	<u>29,639</u>
Total Appropriations	\$	29,639

SCHOOL CIP FUND- 966

Anticipated Revenue

General Revenue	\$	500,000
Total Revenue	\$	500,000

Appropriations

Capital Projects	\$	<u>500,000</u>
Total Appropriations	\$	500,000

GRAND TOTAL BUDGET AMENDMENT NO 2	\$	3,192,424
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INTRODUCED: May 24, 2018

PUBLIC HEARING: June 14, 2018

Public Hearing Advertisement Date: June 4, 2018

Approved this 14th day of June 2018

Effective Date: June 14, 2018

ATTEST: Suzanne F. Simmons
Suzanne F. Simmons
Clerk of Council

CERTIFIED: Carolyn W. Dull
Carolyn W. Dull
Mayor of Council

FY 2018 BUDGET AMENDMENT NO. 2

GENERAL FUND		AMOUNT	
	LEDGER CODE	REVENUE	EXPENDITURE
JUDICIAL ADMINISTRATION			
CLERK OF THE CIRCUIT COURT			
To appropriate additional Comm of VA Library Grant Funds.	11023-45562	\$ 2,554	
Records Preservation	11022160-55421		\$ 2,554
PUBLIC SAFETY			
POLICE DEPARTMENT			
To appropriate revenues and expenditures for recovered costs from insurance for damage to a police vehicle.			
Recovered Costs - Insurance	11033-41901	\$ 16,850	
Auto Equipment	11033110-58316		\$ 16,850
To appropriate additional state funds from forfeited assets received in FY2018.			
State Forfeited Assets Revenue	11033-45427	\$ 6,200	
State Forfeited Assets Expenditures	11033110-55472		\$ 6,200
To appropriate donated funds for the Police Department from the Community Foundation.			
Donations	11033-41731	\$ 1,000	
Special Expenses	11033110-55205		\$ 1,000
FIRE DEPARTMENT			
To appropriate donated funds for the Fire and Rescue Department from the Community Foundation.			
Donations	11033-41732	\$ 1,000	
Materials and Supplies	11033210-55415		\$ 1,000
PUBLIC WORKS			
BUILDING MAINTENANCE			
To appropriate recovered costs from insurance due to the flood damage at the Cochran Judicial Center.			
Recovered Costs - Insurance	11041-41928	\$ 25,730	
Contract Services-restoration of Supreme Court chairs/tables	11044210-53165		\$ 25,730
TRANSFERS TO OTHER FUNDS			
TRANSFER TO OTHER FUNDS			
To appropriate Unassigned Fund Balance for capital projects.			
Prior Year Fund Balance	11001-41930	\$ 350,000	
Transfer to the City Capital Improvement Fund	11099600-59339		\$ 350,000
COMMUNITY DEVELOPMENT			
ECONOMIC DEVELOPMENT			
To appropriate revenues and expenditures for the Frontier Center Development agreement for the June 2018 payment.			
Real Estate Tax	11001-41110	\$ 7,275	
Meals Tax	11001-41224	\$ 12,900	
Sales Tax	11001-41220	\$ 1,825	
Contribution to the Economic Development Authority	11088150-55660-46010		\$ 22,000
TOTAL GENERAL FUND		\$ 425,334	\$ 425,334

BUDGET AMENDMENT NO. 2 GENERAL FUND SUMMARY**GENERAL FUND REVENUE SUMMARY****General Revenues**

Prior Year Unassigned Fund Balance	\$	350,000
Donations - Public Safety		2,000
Total General Revenues	\$	352,000

Tax Revenues

Property Taxes	\$	7,275
Meals and Sales Tax		14,725
Total Tax Revenues	\$	22,000

Recovered Costs

Public Works	\$	25,730
Public Safety		16,850
Total Recovered Costs	\$	42,580

Capital Grants and Contributions

Clerk of the Circuit Court- Library of Virginia	\$	2,554
Forfeited Assets		6,200
Total Capital Grants and Contributions	\$	8,754

Total General Fund Revenues	\$	425,334
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GENERAL FUND EXPENDITURE SUMMARY

Judicial Administration	\$	2,554
Public Safety		25,050
Public Works		25,730
Community Development		22,000
Transfer to the CIP Fund		350,000
Total General Fund Expenditures	\$	425,334

FY 2018 BUDGET AMENDMENT NO. 2

	LEDGER CODE	REVENUE	EXPENDITURE
GRANTS FUND			
CITY SHERIFF			
To appropriate grant funds from the Department of Criminal Justice for video surveillance equipment and bullet proof vests.	21534-45559-40245	\$ 23,491	
Video equipment	21522170-58341-40245		\$ 15,000
Bullet proof vests	21522170-55486-40245		\$ 8,491
FIRE AND RESCUE DEPARTMENT			
To appropriate the balance of federal grant funds for fire equipment awarded in FY2017.			
Federal Revenue- FEMA	21534-46250-40241	\$ 282	
Fire Equipment	21533210-58341-40241		\$ 282
TOTAL GRANTS FUND		\$ 23,773	\$ 23,773
WATER FUND			
To appropriate the 2017C VRA Bond Proceeds for refunding the 2010 VRA Debt and close the Water CIP Fund.			
2017C VRA Bond Proceeds	53001-	\$ 48,500	
2010 VRA Debt - Principal	53009500-59610		\$ 204,015
2010 VRA Debt - Interest	53009500-59611		133,034
2017C VRA Debt- Advance Refunding Bond Issuance Costs	53009500-59521		48,008
2017C VRA Debt - Interest	53009500-59619		63,443
Transfer to the Water CIP Fund	53009600-59310		(400,000)
TOTAL WATER FUND		\$ 48,500	\$ 48,500
WATER CIP FUND			
To decrease appropriations to close the Water CIP Fund.			
Transfer from the Water Fund	31001-49253	\$ (400,000)	
2010 VRA Debt- Principal	31099500-59610		\$ (204,015)
2010 VRA Debt - Interest	31099500-59611		(182,820)
Debt Reserve	31099500-59500		(13,165)
TOTAL WATER CIP FUND		\$ (400,000)	\$ (400,000)
SEWER FUND			
To appropriate the 2017C VRA Bond Proceeds for refunding the 2010 VRA Debt and close the Sewer CIP Fund.			
2017C VRA Bond Proceeds	54001-	\$ 20,441	
2010 VRA Debt - Principal	54009500-59610		\$ 85,985
2010 VRA Debt - Interest	54009500-59611		52,483
2017C VRA Debt- Advance Refunding Bond Issuance Costs	54009500-59521		20,234
2017C VRA Debt - Interest	54009500-59619		26,739
Transfer to the Sewer CIP Fund	54009600-59320		\$ (165,000)
TOTAL SEWER FUND		\$ 20,441	\$ 20,441
SEWER CIP FUND			
To decrease appropriations to close the Sewer CIP Fund.			
Transfer from the Sewer Fund	32001-49254	\$ (165,000)	
2010 VRA Debt -Principal	32099500-59610		\$ (85,985)
2010 VRA Debt- Interest	32099500-59611		(77,052)
Debt Reserve	32099500-59500		(1,963)
TOTAL SEWER CIP FUND		\$ (165,000)	\$ (165,000)

FY2018 BUDGET AMENDMENT NO. 2

	LEDGER CODE	REVENUE	EXPENDITURE
PARKING FUND			
To appropriate the 2018 VRA General Obligation Bond proceeds for the Parking Garage Projects.			
Bond Proceeds -Johnson Street Garage		\$ 1,973,371	
Bond Proceeds - New Street Garage		217,655	
Bond Issuance Costs			\$ 56,600
Construction- Johnson Street Garage	56004699-58360-73314		1,530,179
Construction - New Street Garage	56004699-58360-73414		168,773
Construction Engineering Management Fees- Johnson St Garage	56004699-58354-73314		36,026
Construction Engineering Management Fees- New Street Garage	56004699-58354-73414		3,974
Construction Engineering Inspection Fees-Johnson St Garage	56004699-58353-73314		69,801
Construction Engineering Inspection Fees- New Street Garage	56004699-58353-73414		7,699
Construction Inspection & Testing Fees- Johnson Street Garage	56004699-58353-73314		82,861
Construction Inspection & Testing Fees- New Street Garage	56004699-58353-73414		9,139
Construction Contingency- Johnson Street Garage	56004699-58360-73314		225,974
TOTAL PARKING FUND		\$ 2,191,026	\$ 2,191,026
CAPITAL IMPROVEMENTS FUND			
To appropriate funds transferred from the General Fund for capital projects approved February 8, 2018 for the FY2018-2022 CIP.			
Ineligible Streets- GHP Constitution Drive	39044130-58403	\$ 350,000	\$ 150,000
Greenways Project	39077210-58508		\$ 100,000
Football Stadium ADA Improvements Project	39077210-58510		\$ 100,000
To reduce appropriations for the Frontier Center/Cochran Parkway Project to the actual from the estimated project expense.			
Developer Contribution	39044-41925-70021	\$ (309,889)	
Frontier Center/Cochran Parkway Project	39044130-58493-70021		\$ (309,889)
TOTAL CAPITAL IMPROVEMENTS PROJECT FUND		\$ 40,111	\$ 40,111

FY 2018 BUDGET AMENDMENT NUMBER TWO SUMMARY

CITY GOVERNMENT FUNDS

GENERAL FUND	\$ 425,334
GRANTS FUND	23,773
WATER FUND	48,500
WATER CIP FUND	(400,000)
SEWER FUND	20,441
SEWER CIP FUND	(165,000)
PARKING FUND	2,191,026
CAPITAL IMPROVEMENTS FUND	40,111

TOTAL CITY FUNDS \$ 2,184,185

EDUCATION FUNDS

EDUCATION FUND	\$ 472,750
TEXTBOOK FUNDS	\$ 5,850
CAFETERIA FUNDS	\$ 29,639
SCHOOL CIP FUND 966	500,000

TOTAL EDUCATION FUNDS \$ 1,008,239

TOTAL FY2018 BUDGET AMENDMENT NO. 2 \$ 3,192,424

**STAUNTON CITY SCHOOLS
FY 2018 BUDGET
AMENDMENT NO. 2**

EDUCATION FUND		REVENUES	EXPENDITURES
STATE AND FEDERAL GRANT REVENUE/PROGRAMS			
<u>To increase appropriations for Comm of VA funds received for the National Board Certification program.</u>			
Commonwealth of Virginia Revenue	900300-42401	\$ 2,500	
Stipend for National Board Certification	91102295-51120		\$ 2,500
<u>To increase appropriations for Carl D. Perkins federal grant funds.</u>			
Federal Revenue-Perkins CTE Secondary Programs	900400-43243-PRK00	\$ 357	
Replace Computers/Technology	91103395-58107-PRK00		\$ 357
<u>To increase appropriations for State Equipment Funds.</u>			
Commonwealth of Virginia Revenue	900400-42252	\$ 1,400	
Additional Computers	91103395-58207		\$ 1,400
<u>To appropriate revenue and expenditures for the Title IV Student Support and Academic Enrichment Program.</u>			
Federal Revenue	900300-43378-T4-00	\$ 23,173	
Instructional Assistant Salary	91103195-51151-T4-00		\$ 9,650
Instructional Assistant Salary	91102195-51151-T4-00		\$ 9,650
Life Insurance	91103195-52001-T4-00		\$ 40
Life Insurance	91102195-52001-T4-00		\$ 40
FICA	91103195-52010-T4-00		\$ 735
FICA	91102195-52010-T4-00		\$ 735
VRS Retirement	91102195-52020-T4-00		\$ 493
VRS Retirement	91103195-52020-T4-00		\$ 493
VRS Health Insurance Credit	91103195-52023-T4-00		\$ 38
VRS Health Insurance Credit	91102195-52023-T4-00		\$ 38
Workers Compensation	91102195-52025-T4-00		\$ 16
Workers Compensation	91103195-52025-T4-00		\$ 16
VEC Unemployment Insurance	91103195-52030-T4-00		\$ 8
Educational Supplies	91102195-56013-T4-00		\$ 1,221
<u>To increase appropriations for the Title III Grant- Limited English Proficiency.</u>			
Federal Revenue	900300-43375-T3-00	\$ 4,326	
Tuition Assistance	91102195-52820-T3-00		\$ 1,887
Other Purchased Services	91102195-53569-T3-00		\$ 743
Other Purchased Services	91103195-53569-T3-00		\$ 743
Other Purchased Services	91101195-53569-T3-00		\$ 743
Educational Supplies	91102195-56013-T3-00		\$ 210
<u>To decrease appropriations for the Title IIA Federal Grant.</u>			
Federal Revenue	900300-43345-RT-00	\$ (10,745)	
Teacher Salaries	91101181-51120-RT-00		\$ (10,745)
<u>To increase appropriations for Textbook Funds.</u>			
Commonwealth of VA Basic Aid		\$ 2,239	
Transfer to School Textbook Fund			\$ 2,239
TOTAL STATE AND FEDERAL GRANT PROGRAMS		\$ 23,250	\$ 23,250

STAUNTON CITY SCHOOLS
FY 2018 BUDGET
AMENDMENT NO. 2

EDUCATION FUND		REVENUES	EXPENDITURES
LOCAL GENERAL REVENUE/PROGRAMS			
<u>Bessie Weller Elementary Thacker Fund</u>			
To appropriate additional funds received from the Thacker Fund for Bessie Weller Elementary School			
Donations	900100-49302	\$ 1,500	
Bessie Weller Elementary Thacker Fund	91101181-56109		\$ 1,500
To decrease appropriations for the ERATE program.			
ERATE Revenue	900100-40403	\$ (52,000)	
Additional Computers/Technology	97109095-58207		\$ (1,598)
Labor/Part-Time Wages	97309095-51180		\$ (19,000)
Other Purchased Services	97309095-53569		\$ (16,165)
Maintenance/Service Contracts	97309095-53620		\$ (6,540)
Travel	97309095-55210		\$ (2,795)
Projection Lamps	97609095-56017		\$ (5,902)
To appropriate funds from the FY2017 Education Fund fund balance for capital projects.			
Appropriation of Prior Year Fund Balance	900100-49302	\$ 500,000	
Transfer to the School CIP Fund	98909095-59394		\$ 500,000
TOTAL LOCAL GENERAL REVENUE/PROGRAMS		\$ 449,500	\$ 449,500
TOTAL EDUCATION FUND		\$ 472,750	\$ 472,750
CAFETERIA FUND		REVENUES	EXPENDITURES
To decrease appropriations from the State for the School Nutrition Funding. Total amount received = \$13,918.90.			
State School Nutrition Funds	930387-42215	\$ (105)	
State School Nutrition Funds	930388-42215	\$ (61)	
State School Nutrition Funds	930381-42215	\$ (582)	
State School Nutrition Funds	930383-42215	\$ (201)	
State School Nutrition Funds	930382-42215	\$ (164)	
State School Nutrition Funds	930384-42215	\$ (318)	
			\$ (1,431)
To appropriate revenues and expenditures for catering food events in the division.			
Revenue- Charges for Services	930200-40354-CATER	\$ 1,355	
Café Manager Salaries	H5109000-51161-CATER		\$ 288
FICA	H5109000-52010-CATER		\$ 27
Food Service Salaries	H5109000-51193-CATER		\$ 63
Food & Food Service Supplies	H5109000-56002-CATER		\$ 947
Paper Supplies	H5109000-56003-CATER		\$ 30
To appropriate revenues and expenditures for the Summer Food Service Program			
National School Lunch Program Revenue	930300-43555-SFSP	\$ 9,500	
Food & Food Service Supplies	H5109000-56002-SFSP		\$ 5,000
Café Manager Salaries	H5109000-51161-SFSP		\$ 3,000
Food Service Salaries	H5109000-51193-SFSP		\$ 1,000
FICA	H5109000-52010-SFSP		\$ 230
Worker's Compensation	H5109000-52025-SFSP		\$ 250
VEC Unemployment Insurance	H5109000-52030-SFSP		\$ 20

**STAUNTON CITY SCHOOLS
FY 2018 BUDGET
AMENDMENT NO. 2**

CAFETERIA FUND		REVENUES	EXPENDITURES
To appropriate revenues and expenditures for the Child and Adult Care Food Program.			
Federal Program Revenues-Shelburne	930387-43557-CACFP	\$ 4,000	
Federal Program Revenues-Bessie Weller	930381-43557-CACFP	\$ 1,000	
Bessie Weller Food Supplies	H5109081-56002-CACFP		\$ 1,000
Shelburne Food Supplies	H5109087-56005-CACFP		\$ 4,000
To appropriate revenues and expenditures for the Action for Healthy Kids Grant Food Program.			
Other Grants-Bessie Weller	930381-40587-AFHK	\$ 1,400	
Other Grants-Ware	930383-40587-AFHK	\$ 3,390	
Bessie Weller Food Supplies	H5109081-56014-AFHK		\$ 1,400
Ware Food Supplies	H5109083-56014-AFHK		\$ 3,390
To appropriate revenues and expenditures for the No Kid Hungry Virginia Program.			
Federal Program Revenue- Lee High	930388-43555-NKHVA	\$ 6,450	
Federal Program Revenue- Shelburne	930387-43555-NKHVA	\$ 3,975	
VEC Unemployment	H5109000-52030-NKHVA		\$ 10
Workers' Compensation	H5109000-52025-NKHVA		\$ 90
Food and Supplies	H5109000-56025-NKHVA		\$ 160
FICA	H5109000-52010-NKHVA		\$ 179
Other Operating Supplies	H5109000-56014-NKHVA		\$ 630
Food Service Salaries	H5109000-51170-NKHVA		\$ 800
Food Service Salaries	H5109000-51193-NKHVA		\$ 1,554
Computer/Technology Supplies	H5109088-56016-NKHVA		\$ 2,875
Advertising	H5109000-53598-NKHVA		\$ 4,127
TOTAL CAFETERIA FUND		\$ 29,639	\$ 29,639
TEXTBOOK FUND			
To appropriate additional funds received from the State for textbooks.			
Textbook Payments- State	910300-42214	\$ 3,611	
Textbook Adoptions	B1109195-56021		\$ 3,611
Transfer from the Education Fund	910100-49290	\$ 2,239	
Textbook Adoptions	B1109195-56021		\$ 2,239
TOTAL TEXTBOOK FUND		\$ 5,850	\$ 5,850
SCHOOL CIP FUND 966			
To appropriate prior year unassigned fund balance for the FY2018 & FY2019 CIP			
Transfer from the Education Fund	966100-49290	\$ 500,000	
FY2019 School Security Grant Match	K9009000-58100-SSE		\$ 50,000
Lee High Furniture & Fixtures Reserve	K6609088-58102		\$ 200,000
School Furniture & Equipment Reserve	K9009000-58102		\$ 50,000
School Buildings Mechanical Systems/Roof Reserve	K6609095-58104		\$ 100,000
Technology Infrastructure Reserve	K6809095-58120		\$ 50,000
Maintenance Vehicles/Equipment Reserve	K9009000-58105		\$ 50,000
TOTAL SCHOOL CIP FUND 966		\$ 500,000	\$ 500,000
GRAND TOTAL BUDGET AMENDMENT NO. 2		\$ 1,008,239	\$ 1,008,239

**RESOLUTION
OF THE COUNCIL OF THE CITY OF STAUNTON, VIRGINIA
TO AUTHORIZE
APPEAL OF VARIANCE DECISION OF
THE STAUNTON BOARD OF ZONING APPEALS**

BE IT RESOLVED by the Council of the City of Staunton, Virginia, as follows:

1. Uniform enforcement of the zoning provisions of the Staunton City Code (the "City Code") is important for the purposes of achieving the express and implied intent of Title 18 of the City Code and in assuring citizens of the generally equal or similar application of the rule of law in zoning compliance regardless of where the property may be located in the City of Staunton, Virginia, regardless of the standing or identity of the property owner, and regardless of who may represent the property owner.

2. Because of the erroneous actions in 2008 by the Staunton Board of Zoning Appeals ("BZA") in granting variances from longstanding provisions and interpretation of the City Code that reasonably limit the height of fences and walls and restrict the construction of fences and walls at the intersection of two streets, the City of Staunton had to expend substantial resources in seeking judicial review and intervention by the Staunton Circuit Court to correct and reverse the unlawful decisions of the BZA to grant variances or special treatment in three cases. The Circuit Court, invalidating the BZA's actions in all three cases, concluded in its June 17, 2009 Final Order "that the decisions of the Staunton Board of Zoning Appeals to grant each of the three variances are REVERSED; and that the three variance applications are hereby denied", a copy of which Order is annexed and incorporated as **Exhibit 1**. The Circuit Court's Final Order was not appealed by any of the property owners in the three cases, including the case involving the property located at 1403 N. Augusta Street (the "Property").

3. Since the entry of the Circuit Court's Final Order, the Zoning Administrator and the City of Staunton sought voluntary compliance by the property owners in each of the three cases, expressing a desire to work cooperatively with the property owners to achieve substantial compliance notwithstanding the expense and delay the BZA had caused the Zoning Administrator and the City of Staunton with regard to the proper enforcement of the City Code. In two of the matters, the property owners reasonably cooperated and substantially complied. With respect to the remaining, non-compliant property owner (the "Property Owner") of 1403 N. Augusta Street, the City of Staunton, through its Zoning Administrator, continued to seek compliance, but since the ruling of the Circuit Court, the Property Owner engaged in repeated and protracted delay, and used the delay tactically to try to avoid such compliance with the City Code as to the Property. The Zoning Administrator, by communications through at least 10 letters over an extended period of years, has sought voluntary compliance, to no avail.

4. The Property Owner also sought to have the Zoning Administrator, in effect, modify the law under the City Code so that the Property Owner would not be required to comply with provisions that generally have applied to other properties in the City of Staunton in similar situations. The Zoning Administrator properly declined, concluding that the Zoning Administrator had no authority to override laws enacted by the City Council and so notified the Property Owner's legal counsel.

5. The Property Owner continued in violation of the City Code for approximately 10 years despite the City's efforts to achieve compliance.

6. It appeared beyond reasonable doubt to the respected City staff that despite the efforts to get voluntary compliance, the Property Owner ultimately would not comply with the City Code and would continue to seek further delay. Accordingly, the Zoning Administrator and the City of Staunton had no choice but to pursue Council-authorized formal civil injunctive enforcement proceedings through the Circuit Court to assure substantial compliance. Largely to avoid the City's enforcement through injunction proceedings, the Property Owner waited over five years to file yet a second application for a variance with the BZA in 2014, seeking once again another variance from the BZA even though no facts had changed, including that the Property Owner failed to appeal the Circuit Court's 2009 decision to reverse the BZA and invalidate the variance granted to the Property Owner. The City even offered a compromise resolution before injunction proceedings were further pursued, but the Property Owner refused the compromise opportunity simply to lower the wall, choosing instead essentially to continue with the ensuing injunction litigation and now the latest variance proceedings.

7. Following the further judicial proceedings in the Circuit Court, the Supreme Court of Virginia issued a decision that authorized the Property Owner to have yet another hearing before the BZA despite the extensive prior proceedings and the Circuit Court's reversal of the BZA unlawful variance actions in 2009 in all three cases, including that of the Property Owner.

8. The Zoning Administrator properly opposed the latest variance request of the Property Owner, asserting before the BZA in a supplemental briefing, annexed and incorporated as **Exhibit 2**, that the Property Owner, even under the version of the law in 2014 as preferred by the Property Owner, could not establish entitlement to a variance under the facts and the law.

9. On June 12, 2018, the BZA, despite failing to explain how the Property Owner had satisfied all of the necessary requirements under even the Property Owner's preferred version of the law (outlined in a table in **Exhibit 2**), voted by a bare majority of 3-2 to grant the variance. Portions of the transcript of the June 12, 2018 proceedings are annexed and incorporated by reference as **Exhibit 3**. Of the three BZA members who voted for what is

believed to be an unlawful variance, two of the three were also members of the BZA who voted for the unlawful variance in 2008—as reversed and invalidated by the Circuit Court. Also, two of the current three bare-majority members also have essentially declined repeatedly to take the statewide BZA training despite the City of Staunton, through the Zoning Administrator, having offered over various years to have the City pay for the costs related to such training—and despite the Circuit Court, in its May 10, 2017 Order provided to all BZA members, placing emphasis on the value and importance of such training, a copy of which Order is annexed and incorporated as **Exhibit 4**.

10. The Zoning Administrator, the City of Staunton, and the Council of the City of Staunton believe that once again the BZA’s action to grant a variance was unlawful—and once again the BZA’s action merits judicial review, as recommended by the City’s legal counsel and, yet once again, the BZA’s actions will cause the City to incur expense to uphold what are believed to be the reasonable provisions of the City Code.

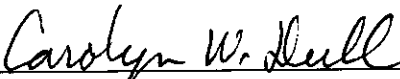
11. Absent an appeal of the BZA’s actions believed to be unlawful under the facts and the law, the bare-majority’s decision to grant the variance will likely be cited as precedent to justify similar variances and, in effect, potentially change the character of residential neighborhoods in the City. It also would be tantamount to sanctioning of the rewriting provisions of the City Code by the BZA, an unelected bare majority of three people. Again, two of those members have repeatedly declined BZA training, and two were part of the BZA whose actions were previously found to be unlawful by the Circuit Court in 2009, one of whom even made the motion—without any reasoning offered under the facts and the law—to grant the variance in the most recent proceedings conducted on June 12, 2018 (**Exhibit 3**). If that state of matters prevails, the BZA’s bare-majority actions, taken utterly without public explanation, would essentially operate to trump City Code zoning provisions that were enacted by the democratically elected members of City Council.

12. City Council realizes that additional expense will be incurred, but it is believed that the expense has been occasioned substantially by the patently erroneous actions of the BZA which originally took unlawful actions in 2008 that had to be reversed by the Circuit Court and, once more, has now taken further action by a bare 3-2 majority to grant a variance without any explanation and public discussion by such majority as to the reasoning based upon the facts and the law. Some of the expense also could have been avoided had the Property Owner not refused the City of Staunton’s effort at compromise which would have simply reduced the height of the wall.

NOW, THEREFORE, to the extent required by law or deemed necessary, the Zoning Administrator, all other appropriate City officials and employees, and the City of Staunton, Virginia, as a municipal corporation, and the Council of the City of Staunton, as the governing body, and counsel for the City are **HEREBY AUTHORIZED** to proceed to take all actions and pursue all recourse and remedies deemed necessary and proper to

appeal and seek reversal of the June 12, 2018 BZA decision as to the Property and Property Owner and otherwise to enforce substantially without further unnecessary delay the applicable provisions of the City Code, including other proceedings and appeals of any kind that may include, but not be limited to, injunctive relief requiring compliance with the City Code, including but not limited to any walls, all at the full expense of the Property Owner, as to the Property, located at 1403 N. Augusta Street (PIN number 3060), in the City of Staunton, Virginia, to the fullest extent permitted by law.

ADOPTED this 14th day of June 2018.


Carolyn W. Dull, Mayor

ATTEST: 
Suzanne F. Simmons
Clerk of Council

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF STAUNTON

JOHN W. GLOVER and
THE CITY OF STAUNTON, VIRGINIA,

Petitioners,

v.

Case Nos. CL08000025-00
CL08000026-00
CL08000051-00

THE BOARD OF ZONING APPEALS OF THE
CITY OF STAUNTON, VIRGINIA, et al.,

Respondents.

FINAL ORDER

With the agreement of counsel and the parties acting pro se, these certiorari proceedings have been conducted as consolidated for purposes of trial and rulings. In recognition of this agreement, and with the concurrence of the Court, it is HEREBY ORDERED that the proceedings are consolidated to that extent.

On October 21, 2008, the Court conducted a pre-trial conference and a hearing on motions matured for consideration, in anticipation of the previously scheduled December 4, 2008 trial pursuant to Virginia Code § 15.2-2314. During the conference, the Staunton Board of Zoning Appeals withdrew its September 29, 2008 Motion for Leave to File Answer. Also, the Court then concluded and, in confirmation, does HEREBY ORDER that the September 12, 2008 motion of the City of Staunton to reconsider and vacate or modify the July 24, 2008 Orders of the prior judge designate is DENIED; however, the services of William E. Shmidheiser as court-appointed counsel for the Staunton Board of Zoning Appeals are HEREBY SUSPENDED effective October 21, 2008, given the appearance of John A. Conrad as counsel.

On December 4, 2008, with all parties present, and represented by counsel or acting pro se, the Court conducted an appeal trial of the three Petitions filed by the City of Staunton, et al. and the Answers of the Respondents, if any, in these three consolidated cases pursuant to Virginia Code Section 15.2-2314.

For good cause appearing, and after considering objections of the Petitioners and the argument of counsel, it is hereby ORDERED that the Motion for Leave to File Answer of the Staunton Board of Zoning Appeals is granted and the Answer of the Staunton Board of Zoning Appeals is duly filed, to which the Petitioners objected on the same grounds identified in their October 17, 2008 objection and on the grounds that the motion had been withdrawn and otherwise now was untimely, with the Staunton Board of Zoning Appeals had remaining in default.

Whereupon, the Court received opening arguments, admitted into evidence all evidence submitted by the BZA, overruling the objection of the Petitioners on grounds that additional evidence was not necessary for the proper disposition of the matter, and then the BZA and all other Respondents rested; the Court heard all closing arguments of counsel for the Petitioners and the BZA, and pro se Respondents, and concluded the trial, with leave for the parties to submit additional briefs and/or memoranda of points and authorities, as well as the minutes of the Staunton City Council, all of which were submitted by the parties and considered by the Court.

Whereupon, in consideration of the record of the Staunton Board of Zoning Appeals, all evidence submitted by the parties, the written briefs and oral argument of all counsel and all parties, and for the reasons stated in the Court's January 14, 2009 letter opinion, it is HEREBY ORDERED and ADJUDGED that the Staunton Board of Zoning

Appeals' motion to dismiss all three Petitions for lack of standing is DENIED; that the decisions of the Staunton Board of Zoning Appeals to grant each of the three variances are REVERSED; and that the three variance applications are hereby denied.

It is further ORDERED that the transcript of the October 21, 2008 hearing before the Court is hereby made a part of the record in all of these proceedings.

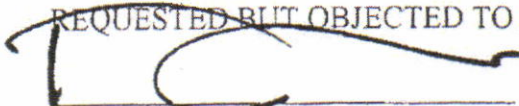
The Clerk is directed to forward an attested copy of the Final Order to counsel of record and all parties acting pro se.

ENTERED this 17th day of June, 2009.



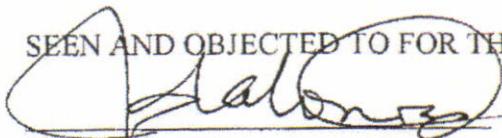
Judge

REQUESTED BUT OBJECTED TO AS NOTED OTHERWISE:

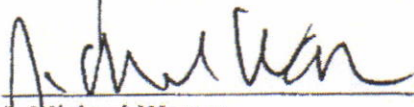


Douglas L. Gynn
Attorney for Petitioners

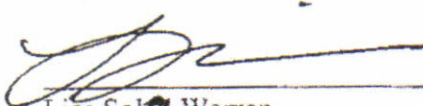
SEEN AND OBJECTED TO FOR THE REASONS STATED IN THE RECORD:



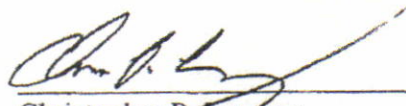
John A. Conrad,
Board of Zoning Appeals Attorney



Michael Warren



Lisa Solon Warren



Christopher P. Lowery

Exhibit 1

Brandy Pierce Lowery
Brandy Pierce Lowery

Frank Belloni
Frank Belloni

Debra Chilton-Belloni
Debra Chilton-Belloni

SEEN:

William E. Schmidheiser III
William E. Schmidheiser, Esquire

A J APPEARANCE
After Notice
Endorsement waived
pursuant to Rule 1:13
but see letters
dated April 29, 2009
and MAY 15, 2009
M.S.J.
6-17-09

**BOARD OF
ZONING APPEALS**

**SUPPLEMENT TO
AGENDA BRIEFING**

Staunton, VA

Meeting Date:	June 12, 2018	Zoning Administrator: Rodney Rhodes, Certified Zoning Admin.
Item #		
Applicant	Debra Chilton-Belloni: Variance Request	
Location	1403 North Augusta Street (PID #3060)	
Code Section	Various Virginia Code provisions; and Staunton City Code Sections 18.120.010(2), 18.120.010 (3)(b), 18.120.010(3)(d)	

Introduction

This briefing supplements my original briefing which was prepared in anticipation of the scheduled April 3, 2018 board of zoning appeals (BZA) meeting to consider Ms. Belloni's latest application for variance from the City of Staunton zoning provisions under Title 18 of the Staunton City Code. Once more, she is seeking special treatment, asking the BZA to grant her a variance, now arguing that current law under the Virginia Code should not apply. Instead, apparently believing that she has a better chance of getting a variance under old law, she wants the BZA to apply old law. My position as the Zoning Administrator is that whether under the old law or the current law, Ms. Chilton-Belloni falls far short of establishing entitlement to special treatment in the form of a variance.

In the original Agenda Briefing supplied to the BZA in March before Ms. Chilton-Belloni informed everyone that she would attempt to use old law, I provided an analysis of the standard(s) which the 2015 amendments of the Virginia Code mandated for the BZA's consideration of a variance application. Given that Ms. Chilton-Belloni now lately asserts that the applicable statutory provisions are those which existed in 2014, however, I am supplementing to provide the BZA with my analysis and judgment as to consideration of the 2014 provisions, although it continues to be my view that my prior analysis obtained and required denial of a variance. Let me emphasize: this supplemental briefing is not intended to *replace* my original briefing, with attachments; but rather, it assumes for the purpose of argument, without waiving my prior position, that the old 2014 law applies and provides additional analysis and information within the framework of Ms. Chilton-Belloni's assertion that the law as it existed in 2014 is

applicable to this hearing. My view is that, while I preserve my prior position that current law applies, the BZA should make alternative decisions under the old and current law—and under either and both, Ms. Chilton-Belloni fails to be entitled to a variance as a matter of fact and of law.

Variance Standards Under 2014 Code

In 2014, under the provisions of Virginia Code Section 15.2-2201 a "variance" meant, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size¹, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It does not—and, also in the language of the statute, shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning. In addition to some review of the language of the Virginia Code, I offer the BZA my analysis of the Belloni situation so that the BZA may witness for itself that even under the old law, which actually is not that different from the current law, Ms. Chilton-Belloni cannot prevail and the BZA's grant of a variance would be fundamentally flawed.

Under the provisions of Virginia Code Sec. 15.2-2309 as it existed in 2014, boards of zoning appeals were permitted to authorize in specific cases such variance as defined in § 15.2-2201 from the terms of a locality's zoning provisions applicable to everyone else similarly situated as follows as delineated:

- as will not be contrary to the public interest,
- when, owing to special conditions a literal enforcement of the provisions will result in *unnecessary hardship*
- provided that the spirit of the ordinance shall be observed and substantial justice done,
- when a property owner can show that his property was acquired in good faith and
- where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto,
- the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant,
- provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

¹ It appears to me that the term "height" was added in 2015, but was not a part of the 2014 statute, which Ms. Chilton-Belloni contends is applicable.

Further, it is abundantly clear and unequivocal in 2014 no such variance was authorized unless the Board found:

- (1) That the strict application of the ordinance would produce undue hardship *relating to the property*;
- (2) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- (3) That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
- (4) That the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In my view as an experienced zoning administrator, it is at least very doubtful whether the above standards are significantly different than those which were applied by boards of zoning appeals prior to the 2009 amendments which removed the requirement that the applicant demonstrate a hardship "approaching confiscation" before a variance could be granted. To illustrate this point, for example, in *Martin v. City of Alexandria*, 286 Va. 61 (2013) the variance applicants argued that since they were now not required to prove a hardship "approaching confiscation" the BZA could "authorize variances in instances that previously were not authorized." The Supreme Court of Virginia held that the "argument ignores, however, the fact that the amendment did not alter the remainder of" the City Charter, which contained language "virtually identical" to that found at Va. Code §15.2-2309(2). Taking into consideration the considerable remaining requirements for a variance, none was justified, and the Court of Virginia held that the Alexandria board of zoning appeals acted erroneously—as did this BZA originally—in granting a variance, in that its doing so was contrary to law. While I acknowledge that the *Martin* case involved the City Charter, the same reasoning applies because, as the Supreme Court of Virginia, noted, the applicable language of the City Charter and the Virginia Code Section 15.2-2309(2) were "virtually identical".

Regardless, the same analysis which results in a denial of the variance application under the current law, which reflects amendments made in 2015, the old-law standard merits and requires that I recommend the same denial under the version of the statute which applied prior to the 2015 amendments. I urge the BZA to deny the variance under both the old law and the current law, and yet as I mentioned, I will illustrate the fatal flaws in Ms. Chilton-Belloni's position even under the old, pre-2015 law. What Ms. Chilton-Belloni hopes is that the BZA will try to find some language, even under a distorted reading of it, that will allow the BZA erroneously to act from feelings or from the "heart" to purport to grant her what she is not entitled to get as a special treatment that her other neighbors would not get. If the BZA acts erroneously to give her what she wants, it essentially will be deciding that all other properties in the neighborhood would be entitled to have a wall that violates the Staunton City Code.

Illustrative Analysis Under 2014 Statute

I offer the following illustrative analysis of some aspects to show that a variance cannot, within even the old 2014 law, be granted in this situation. In essence, Ms. Chilton-

Exhibit 2

Belloni must show that all requirements are satisfied, as reflected in the table which is part of the attachments to this briefing, and she cannot do so.

As one example of a standard that cannot be met to gain a variance, Ms. Chilton-Belloni has not shown that enforcement of the zoning ordinance would “result in unnecessary hardship” as the 2014 statute required.

The subject property, for example, obviously has no unique physical condition (shape, size, slope, etc.) that restricts its use more so than other lots in the same zoning district or in the neighborhood vicinity. It has no “exceptional narrowness, shallowness, size or shape” or any “exceptional topographic conditions” as referenced in the 2014 statute. None of her arguments can change the reality that the lot is rectangular, nearly 1.3 acres, and relatively level with a front yard depth of approximately 100 feet when the P-1 District requires a minimum set back from the street right-of-way of only 25 feet.

Furthermore, in the language of the old 2014 Virginia statute, there is no “condition, situation, or development of property immediately adjacent thereto” that “effectively prohibits or unreasonably restricts the utilization of the property”. The adjoining lots are zoned P-1 and most have been developed with residential dwellings. The adjoining property to the north, 1409 North Augusta Road, was at one time even utilized as a gift shop. The property to the south, across Ridgeview Road, is zoned R-2 Low Density Residential and is developed with a single-family dwelling. None of these adjacent uses “effectively prohibits or unreasonably restricts the utilization of the property”.

In this situation, a variance is not needed to reach parity with other lots in the district and, actually, to grant a variance in this instance would be affording this property and its owner what really is truly preferential treatment compared to other properties. It would be a “special privilege or convenience” which the 2014 statute specifically prohibited.

In addition, strict application of the zoning regulations does not “effectively prohibit or unreasonably restrict” Ms. Chilton-Belloni’s utilization of her property. To the contrary, the property has been utilized as residential for over 100 years—and apparently still is today, even being used beyond its original purpose to operate separately rented apartments to tenants. It’s still residential today—and, maybe, in a sense, even more residential and lucrative. Without doubt, the property may continue to be used for this purpose without the granting of a variance. The wall as currently configured is an accessory structure which, by definition under Section 18.10.020 of the Staunton City Code, is incidental to the main building or house and, even without it, the reasonable utilization of the property remains and will remain as all along.

Further, it is notable that the 2014 statute prohibits issuance of a variance unless the BZA finds that “strict application of the ordinance would produce undue hardship *relating to the property*”. Ms. Chilton-Belloni suggests no such hardship, and a limitation on the height of exterior walls at the property does not prevent its full and complete utilization in any logical sense. The only “hardship” which Ms. Chilton-Belloni appears to propose is that her compliance with the law would cause her *economic loss* because she would have to modify what she regards as an *improvement* which she made to the property. Yet, such economic losses, standing alone, have not been found by the Courts to constitute the sort of “hardship” which justify the grant of a variance. I refer you to the cases cited by Greg Kamptner, County Attorney for Albemarle County, in the analysis provided as Exhibit G with the original briefing materials. (Mr. Kamptner is the author of materials used to provide statewide training certification to members of locality

Exhibit 2

boards of zoning appeals.) That analysis includes, as Appendix B (pages B-1 through B-6) a detailed review of the state of the law prior to the 2015 amendments, and I respectfully encourage the BZA to review it thoroughly.

At its last meeting, although I did not know or expect it would be a subject of discussion by the BZA, especially given the absence of counsel for Ms. Chilton-Belloni and counsel for the Zoning Administrator, the BZA pursued the concept of "hardship." But, let me be sure that the BZA understands that the term "hardship" under the controlling law, whether it be in 2014 or 2015, *must relate to the property*. There is no such connection to a physical condition relating to the property. None.

Finally, Ms. Chilton-Belloni has not demonstrated that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance. If City Council wished to reduce, or even eliminate, the wall height requirement of the zoning ordinance, it can certainly do so by adopting an ordinance to effect such an amendment to the existing zoning provisions of the Staunton City Code. Its making that choice would certainly be "reasonably practicable" even if, in my view, not necessarily prudent. Regardless, the fact that the height requirements can be addressed legislatively by Council, thus resolving the special privilege Ms. Chilton-Belloni asks the BZA to grant, makes her variance application even less tenable, given the requirements of the 2014 statute.

The applicant fails to meet other applicable requirements as well, including in my view the reality that the wall, as currently configured, has changed the character of the neighborhood—and, by necessity of precedent by decision of the BZA, would do so even more because any other property owner in the vicinity would expect the same special privilege. In effect, Ms. Chilton-Belloni really is asking the BZA to be an unelected, super-City Council, to legislate changes to the City's zoning provisions.

In my earlier submission to the BZA I provided a table, drawn from the current provisions of the Virginia Code, to illustrate the test that must be met for entitlement to a variance. It illustrated the lack of merit of Ms. Chilton-Belloni's application. In like form, attached as Exhibit O is a similar table, referencing the statutes as they existed in 2014 under the old law that Ms. Belloni seeks to exploit.

Whether before or after adoption of the 2015 amendments to the Virginia Code, Ms. Chilton-Belloni fails to establish that her application meets the standard for a variance as defined in Va. Code Section 15.2-2201 and the criteria set out in Va. Code Section 15.2-2309. A variance issued for a lesser reason or simply because the BZA feels it is doing "justice" or following its "heart," a word used either explicitly or implicitly by one or more BZA members, at the BZA's February 13, 2018 meeting, would constitute a disregard of the law, plainly wrong decision-making, and a failure to follow and apply the law as written, whether under the old or current law.

Staff Recommendation

The Zoning Administrator continues to oppose and urge denial of the variance request.

Exhibits:

**Exhibit O – Zoning Administrator Table Entitled “Board of Zoning Appeals –
Variance Provisions of 2014 Statues”**

BOARD OF ZONING APPEALS

Transcript of Proceedings
June 12, 2018

Hart

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BOARD OF ZONING APPEALS

Staunton, Virginia

ORIGINAL

EXCERPT FROM TRANSCRIPT OF PROCEEDINGS

Tuesday, June 12, 2018

2:00 p.m.

Pages 1 - 5

Reported by: Kay Trigilio, RPR

1 A P P E A R A N C E S

2

3 BOARD MEMBERS:

4 PAUL VAMES, Chairman

5 HAL SHARP

6 WILLARD KEELING

7 BRADLEY BRYANT

8 JUDITH WIEGAND

9

10 ON BEHALF OF THE ZONING COMMISSIONER:

11 VICTOR SANTOS, ESQUIRE

12 NELSON, McPHERSON, SUMMERS & SANTOS

13 12 North New Street

14 Staunton, Virginia 24401

15 (540) 885-0346

16

17 ON BEHALF OF DEBRA CHILTON-BELLONI:

18 MARK D. OBENSHAIN, ESQUIRE

19 OBENSHAIN LAW GROUP

20 420 Neff Avenue, Suite 130

21 Harrisonburg, Virginia 22801

22 (540) 208-0727

23 mdo@obenshainlaw.com

24

25

1 E X C E R P T

2

3 MR. VAMES: Thank you, gentlemen. Once
4 again, we'll close the public session of this part of
5 this meeting and I'll open the closed session, if
6 anyone wants to make a motion. Is anyone ready to
7 make a motion?

8 MS. WIEGAND: Not quite yet. I'm still
9 looking through my material here.

10 MR. VAMES: Okay. Anyone wish to make a
11 motion?

12 MR. KEELING: I can make a motion. Are you
13 all ready to make a motion?

14 MS. WIEGAND: If you are, please go ahead.

15 MR. KEELING: Okay. I've listened -- first
16 of all, let me say I've been on this thing since the
17 very beginning, so I kind of know all the facts, I
18 think. I've carefully listened to all the material,
19 the evidence presented by both sides. I've listened
20 to all the arguments presented by both sides today, so
21 I now make a motion to grant variances to Section
22 18.120.010(2), Section 18.120.010(3)(b), and Section
23 18.120.010(3)(d) for the property at North Augusta and
24 Ridgeview Road. My motion in variances are to leave
25 the wall in place without modification and to allow

1 for repairs to the damage to the entrance gate.

2 MR. VAMES: Members of the board, you all
3 heard a motion. Is there a second to the motion?

4 MR. SHARP: Second.

5 MR. VAMES: Motion has been made and
6 seconded. Call for the vote. Let's do this one at a
7 time.

8 MS. WIEGAND: Nay.

9 MR. BRYANT: Nay.

10 MR. SHARP: Yes.

11 MR. KEELING: Yes.

12 MR. VAMES: Yes. Motion carries, 3 to 2.

13 And there is no other business to come before the
14 board today. Again, either party, when they are on
15 the losing side of this, know you have 30 days to file
16 an appeal.

17 MR. SANTOS: Thank you for your time.

18 MR. OBENSHAIN: Thank you, members of the
19 board.

20

21 (Proceedings were concluded at 5:08 p.m.)

22

23

24

25

CERTIFICATE OF COURT REPORTER

I, Kay Trigilio, RPR, do hereby certify that I recorded verbatim the proceedings at the Board of Zoning Appeals for the City of Staunton in the captioned cause, on June 12, 2018.

I further certify that the foregoing pages, numbering 1 through 4 inclusive, constitute a true, accurate, and complete transcript of excerpted proceedings.

Given under my hand this 13th day of June, 2018.

Kay Trigilio



Kay Trigilio, RPR

1	D	members 4:2,18 modification 3:25 motion 3:6,7,11,12, 13,21,24 4:3,5,12	T
18.120.010(2) 3:22 18.120.010(3)(b) 3:22 18.120.010(3)(d) 3:23	damage 4:1 days 4:15		thing 3:16 time 4:7,17 today 3:20 4:14
2	E	N	V
2 4:12	entrance 4:1 evidence 3:19	Nay 4:8,9 North 3:23	VAMES 3:3,10 4:2, 5,12 variances 3:21,24 vote 4:6
3	F	O	W
3 4:12 30 4:15	facts 3:17 file 4:15	OBENSHAIN 4:18 open 3:5	wall 3:25 WIEGAND 3:8,14 4:8
5	G	P	
5:08 4:21	gate 4:1 gentlemen 3:3 grant 3:21	p.m. 4:21 part 3:4 party 4:14 place 3:25 presented 3:19,20 proceedings 4:21 property 3:23 public 3:4	
A	H	R	
ahead 3:14 appeal 4:16 arguments 3:20 Augusta 3:23	heard 4:3	ready 3:6,13 repairs 4:1 Ridgeview 3:24 Road 3:24	
B	K	S	
beginning 3:17 board 4:2,14,19 BRYANT 4:9 business 4:13	KEELING 3:12,15 4:11 kind 3:17	SANTOS 4:17 seconded 4:6 Section 3:21,22 session 3:4,5 SHARP 4:4,10 side 4:15 sides 3:19,20	
C	L		
Call 4:6 carefully 3:18 carries 4:12 close 3:4 closed 3:5 concluded 4:21	leave 3:24 listened 3:15,18,19 losing 4:15		
	M		
	made 4:5 make 3:6,7,10,12, 13,21 material 3:9,18 meeting 3:5		

BOARD OF ZONING APPEALS

Transcript of Proceedings
June 12, 2018

Hart

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BOARD OF ZONING APPEALS
Staunton, Virginia

ORIGINAL

EXCERPT FROM MR. GLOVER'S STATEMENTS

Tuesday, June 12, 2018

2:00 p.m.

Pages 1 - 5

Reported by: Kay Trigilio, RPR

1 A P P E A R A N C E S

2

3 BOARD MEMBERS:

4 PAUL VAMES, Chairman

5 HAL SHARP

6 WILLARD KEELING

7 BRADLEY BRYANT

8 JUDITH WIEGAND

9

10 ON BEHALF OF THE ZONING COMMISSIONER:

11 VICTOR SANTOS, ESQUIRE

12 NELSON, McPHERSON, SUMMERS & SANTOS

13 12 North New Street

14 Staunton, Virginia 24401

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17 ON BEHALF OF DEBRA CHILTON-BELLONI:

18 MARK D. OBENSHAIN, ESQUIRE

19 OBENSHAIN LAW GROUP

20 420 Neff Avenue, Suite 130

21 Harrisonburg, Virginia 22801

22 (540) 208-0727

23 mdo@obenshainlaw.com

24

25

1

E X C E R P T

2

3

(Answers by Mr. Glover)

4

BY MR. SANTOS:

5

Q. Do you recall going to the Belloni property

6

with Mr. Hartless?

7

A. I do.

8

Q. What was the purpose of going there?

9

A. We had sent a Notice of Violation sometime

10

around September, middle of September, maybe the 20th,

11

I can't remember dates exactly, but somewhere around

12

September the 20th.

13

Q. This is of?

14

A. This is 2007 for a Notice of Violation.

15

Work continued on the wall after the Notice of

16

Violation was delivered, so -- I wasn't there

17

personally when it was delivered. You mentioned that

18

earlier in the proceedings.

19

So later on, between September and

20

November, I went back -- I think it was sometime the

21

end of September, probably, beginning of October, I

22

went back with Mr. Hartless, and we delivered a Stop

23

Work Order and advised Dr. and Mrs. Belloni to stop

24

construction on the wall at that time. It was not

25

complete.

1 Q. So describe what you recall the condition
2 of the wall was at that time.

3 A. When we parked on the Ridgeview side and
4 got out of the car, walked directly, stepped over the
5 wall, it was no more than -- I can't remember -- maybe
6 one course of the block, maybe; we were able to step
7 right over it. We walked to the front door, rang the
8 doorbell, and Dr. and Mrs. Belloni both came out and
9 spoke with us.

10 Q. Did you hand them the Stop Work Order?

11 A. Yes, sir, I did.

12 Q. In terms of the front, Augusta Street, can
13 you recall how much construction had been done?

14 A. It was considerably more complete on
15 Augusta. I can't say whether it was a hundred percent
16 or 50, but it was considerably more complete, but the
17 Ridgeview side was not very complete.

18 Q. Did the Bellonis stop construction after
19 being provided -- after being told to stop?

20 A. No, sir. They continued yet to construct
21 the wall until it was completed.

22

23 * * * * *

24

25

CERTIFICATE OF COURT REPORTER

I, Kay Trigilio, RPR, do hereby certify that I recorded verbatim the proceedings at the Board of Zoning Appeals for the City of Staunton in the captioned cause, on June 12, 2018.

I further certify that the foregoing pages, numbering 1 through 4 inclusive, constitute a true, accurate, and complete transcript of excerpted proceedings.

Given under my hand this 14th day of June, 2018.

Kay Trigilio



Kay Trigilio, RPR

1	BEHALF 2:10,17 Belloni 3:5,23 4:8 Bellonis 4:18 block 4:6 Board 1:5 2:3 5:4 BRADLEY 2:7 BRYANT 2:7	describe 4:1 directly 4:4 door 4:7 doorbell 4:8	K	percent 4:15 personally 3:17 proceedings 3:18 5:4,10 property 3:5 provided 4:19 purpose 3:8
2	C captioned 5:6 car 4:4 CERTIFICATE 5:1 certify 5:3,7 Chairman 2:4 CHILTON-BELLONI 2:17 City 5:5 COMMISSIONER 2:10 complete 3:25 4:14,16,17 5:9 completed 4:21 condition 4:1 considerably 4:14,16 constitute 5:8 construct 4:20 construction 3:24 4:13,18 continued 3:15 4:20 COURT 5:1	E earlier 3:18 end 3:21 ESQUIRE 2:11,18 EXCERPT 1:12 excerpted 5:9	L LAW 2:19	R rang 4:7 recall 3:5 4:1,13 recorded 5:4 remember 3:11 4:5 Reported 1:16 REPORTER 5:1 Ridgeview 4:3,17 RPR 1:16 5:3,16
4	4 5:8 420 2:20	F foregoing 5:7 front 4:7,12	M MARK 2:18 Mcpherson 2:12 mdo@obenshainlaw.com 2:23 MEMBERS 2:3 mentioned 3:17 middle 3:10	S SANTOS 2:11,12 3:4 September 3:10, 12,19,21 SHARP 2:5 side 4:3,17 sir 4:11,20 spoke 4:9 STATEMENTS 1:12 Staunton 1:6 2:14 5:5 step 4:6 stepped 4:4 stop 3:22,23 4:10, 18,19 Street 2:13 4:12 Suite 2:20 SUMMERS 2:12
5	5 1:15 50 4:16 540 208-0727 2:22 540 885-0346 2:15	G Glover 3:3 GLOVER'S 1:12 GROUP 2:19	N Neff 2:20 NELSON 2:12 North 2:13 Notice 3:9,14,15 November 3:20 numbering 5:8	
A	accurate 5:9 advised 3:23 answers 3:3 Appeals 1:5 5:5 Augusta 4:12,15 Avenue 2:20	H HAL 2:5 hand 4:10 5:11 Harrisonburg 2:21 Hartless 3:6,22 hundred 4:15	O OBENSHAIN 2:18, 19 October 3:21 Order 3:23 4:10	
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	D dates 3:11 day 5:11 DEBRA 2:17 delivered 3:16,17, 22	J JUDITH 2:8 June 1:13 5:6,11		

T

terms 4:12

time 3:24 4:2

told 4:19

transcript 5:9

Trigilio 1:16 5:3,16

true 5:8

Tuesday 1:13

V

VAMES 2:4

verbatim 5:4

VICTOR 2:11

Violation 3:9,14,16

Virginia 1:6 2:14,
21

W

walked 4:4,7

wall 3:15,24 4:2,5,
21

WIEGAND 2:8

WILLARD 2:6

Work 3:15,23 4:10

Z

Zoning 1:5 2:10 5:5

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF STAUNTON

IN RE: APPOINTMENT TO THE STAUNTON BOARD OF ZONING APPEALS

ORDER

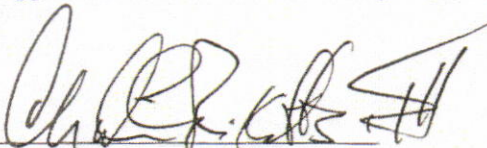
Taking notice that Carl V.W. Hensley, who served on the Staunton Board of Zoning Appeals, passed away on or about February 23, 2017, according to the obituary published in The News Leader, the Court finds it appropriate now to appoint a successor to the Staunton Board of Zoning Appeals.

Upon consideration of the qualifications of Judith Wiegand, a resident of the City of Staunton and a member of the Staunton Planning Commission, it is ADJUGED, ORDERED AND DECREED that Judith Wiegand is HEREBY APPOINTED to serve as a member of the Staunton Board of Zoning Appeals for the unexpired portion of Mr. Hensley's term of office, namely until January 31, 2021, pursuant to Virginia Code § 15.2-2308(A), which provides that "[a]ppointments to fill vacancies shall be only for the unexpired portion of the term." Also consistent with the provisions of Virginia Code § 15.2-2308(A) that "[m]embers of the board shall hold no other public office in the locality except that one may be a member of the local planning commission," Ms. Wiegand would be the sole member of the Staunton Planning Commission to serve on the Staunton Board of Zoning Appeals.

To the extent made available through funding by the City of Staunton, all members of the Staunton Board of Zoning Appeals are encouraged to take advantage of training through the Virginia Certified Boards of Zoning Appeals Program, so that each member has the knowledge and skills needed to perform their duties effectively and responsibly in accordance with law. For any future appointment consideration, the Court will expect to be informed whether the person is committed to completing such training before the end of the second year of service after an initial appointment or, if already an incumbent for a full term of office, has completed such training before the expiration of the incumbent's term of office.

The Clerk of the Court is directed to provide an attested copy of this Order to the Clerk for the Staunton Board of Zoning Appeals, requesting that the Clerk for the Staunton Board of Zoning Appeals provide a copy to all members of the Staunton Board of Zoning Appeals and to the Staunton City Attorney.

ENTER this 24th day of May, 2017.


Judge

TESTE: Stacy Fall ^{4 COPY} Dep
Circuit Court, Staunton, VA CLERK

ORGANIZATIONAL MEETING OF STAUNTON CITY COUNCIL
Tuesday, July 2, 2018 – 12:00 p.m.
Council Chambers

PRESENT: Erik D. Curren
Carolyn W. Dull
James J. Harrington
R. Terry Holmes
Ophie A. Kier
Andrea W. Oakes
Brenda O. Mead

ALSO PRESENT: Stephen F. Owen, City Manager
Steven Rosenberg, Deputy City Manager
Douglas L. Guynn, City Attorney
Suzanne F. Simmons, Clerk of Council

Mr. Guynn, City Attorney, opened the meeting with a short statement. He then asked the newly elected members of Council to step forward and remain standing in front of the City seal.

Mr. Guynn continued by stating that it was an honor and privilege to introduce and present, for the administration of the oath of office, The Honorable Charles Ricketts, Judge of the Circuit Court of the City of Staunton, Virginia.

Judge Ricketts administered the oath of office to the newly elected members of council, Ms. Dull, Mr. Holmes, and Ms. Mead.

Mr. Guynn then outlined the process for electing the Mayor: nominations would be received, without the need for a second; once there appear to be no more nominations, the question of whether to elect the nominee would be stated and the Clerk of Council would poll the seven seated members on each of the nominees, in the order received, until one nominee has received a majority vote for election as Mayor; and upon election, the gavel would be relinquished to the newly elected Mayor, who then in turn would conduct the election for Vice-Mayor and preside over the remainder of the meeting.

A. Election of Mayor

Mr. Guynn stated that nominations for the position of Mayor for the City of Staunton, Virginia, are now in order.

Dr. Harrington nominated Carolyn Dull for Mayor and was seconded by Dr. Curren.

There being no further nominations, Mr. Guynn stated that the election would proceed.

Mr. Guynn stated that, in the order in which the nominations were received, the question now before Council is, "shall Carolyn Dull be elected as President or Mayor of the City of Staunton?"

The Clerk polled the Council for the election of Carolyn Dull as Mayor of Staunton City Council:

Dr. Harrington	aye	Ms. Oakes	aye
Dr. Curren	aye	Ms. Mead	aye
Mr. Holmes	aye	Ms. Dull	aye
Mr. Kier	aye		

Mayor Dull thanked members of Council for their vote of confidence and stated she would work as hard as she can.

B. Election of Vice Mayor

Mayor Dull then called for nominations for the office of Vice Mayor.

Dr. Curren nominated Ophie Kier to serve as Vice Mayor and was seconded by Mr. Holmes.

There being no other nominations, the Mayor asked the Clerk to poll Council.

The Clerk polled the Council for the election of Ophie Kier as Vice Mayor:

Dr. Curren	aye	Mr. Kier	aye
Mr. Holmes	aye	Ms. Mead	aye
Dr. Harrington	aye	Mayor Dull	aye
Ms. Oakes	aye		

Mr. Kier was elected Vice Mayor.

C. Consideration of Resolution Establishing Dates for the Regular Meetings of the Council for the City of Staunton for the Period of July, 2018 through June, 2020

Mayor Dull stated that this is the schedule that the City has traditionally set with Council meetings held on the second and fourth Thursdays of the month with the exception for the months of November and December where meetings are held on the second Thursday.

Ms. Oakes moved to adopt a resolution establishing dates for the regular meetings of the Council for the City of Staunton for the period of July, 2018 through June, 2020. Seconded by Dr. Harrington, the motion carried as follows:

Mayor Dull	aye	Ms. Oakes	aye
Vice Mayor Kier	aye	Mr. Holmes	aye
Dr. Curren	aye	Dr. Harrington	aye
Ms. Mead	aye		

**CITY OF STAUNTON, VIRGINIA
RESOLUTION ESTABLISHING DATES FOR
REGULAR MEETINGS OF THE
COUNCIL FOR THE CITY OF STAUNTON
FOR THE PERIOD OF
JULY, 2018 THROUGH
JUNE, 2020**

WHEREAS, Section 6 of Chapter II of the Charter for the City of Staunton provides that regular meetings of the Council must occur at least once per month and that Council meet at such times as prescribed by ordinance or resolution;

WHEREAS, Section 2.10.070 of the Staunton City Code provides that Council will hold regular meetings on the second and fourth Thursdays of each month at such hour as it may designate and at any other time to which it may be regularly adjourned or postponed; and

WHEREAS, for the months of November 2018 and November 2019, City Council has determined that it will not meet on the fourth Thursday due to the Thanksgiving holiday, which Council recognizes as a holiday observed by the City; and

WHEREAS, for the months of December 2018 and December 2019, City Council has determined that it will not meet on the fourth Thursday due to the Christmas holiday, which Council recognizes as a holiday observed by the City;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Staunton, Virginia, that:

1. Regular meetings of the Council shall be held on the second and fourth Thursdays of each month for the period of July, 2018 through June, 2020, at City Hall, 116 West Beverley Street, Staunton, Virginia, at 7:30 p.m. or at such earlier or other time or place as may be designated by the published agenda for any meeting or session of Council, with the exception of the months of November and December, when Council shall only meet on the second Thursday of those months.

2. In the event the Mayor, or the Vice Mayor, if the Mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members of the Council to attend a regular meeting, such regular meeting shall be continued to the next Monday. Such finding and declaration shall be communicated to the members of the Council and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

Adopted this 2nd day of July, 2018.

/s/ Carolyn W. Dull
Mayor

ATTEST: /s/ Suzanne F. Simmons
Clerk of Council

D. Re-affirmation of Council Procedure Memoranda 1 through 15

Mayor Dull explained that the Council Procedure Memoranda set forth the operating procedures of the Council for items such as Communications, Boards and Commissions, Agendas, Grant Applications, Abstentions, Spending Authority for the Mayor, Requests for Funding Organizations, Naming of Public Facilities, and Consent Agenda.

Dr. Harrington moved to re-affirm Council Procedure Memoranda 1-15. Seconded by Ms. Mead, the motion carried as follows:

Dr. Curren	aye	Vice Mayor Kier	aye
Ms. Mead	aye	Mayor Dull	aye
Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye		

E. Consideration of SunTrust Bank Resolution Authorizing Signatures

Mayor Dull stated this was a housekeeping issue, making sure there are proper signatures authorized for the City's SunTrust Bank accounts.

Vice Mayor Kier moved that Council adopt the SunTrust Deposit Account Resolution and Authorization for Business Entities effective July 1, 2018. Seconded by Mr. Holmes, the motion carried as follows:

Mr. Holmes	aye	Dr. Harrington	aye
Ms. Oakes	aye	Dr. Curren	aye
Vice Mayor Kier	aye	Ms. Mead	aye
Mayor Dull	aye		

(SEE ATTACHMENT 1)

Adjournment

The meeting adjourned at 12:11 p.m.

Suzanne F. Simmons
Clerk of Council



Deposit Account Resolution and Authorization for Business Entities ("DARA")

I. Business Entity Information

Name City of Staunton	Business Type PF SL
Governed By Virginia	Taxpayer ID Number 54-6001631
Date Resolution and Authorization Adopted	

This DARA shall apply to **ALL** deposit account(s) (hereinafter "Account") currently open with the Bank or opened in the future in the name of the Business Entity. This DARA supersedes and replaces any DARA, banking resolution, or other document for the Business Entity whose name appears in the name box above in this Section I and which addresses or deals with any of the types of banking authorities specified in Section II herein, for ALL of Business Entity's Accounts. The Authorized Signers listed in Section III will have full authority on ALL of the Business Entity's Accounts, even if they did not have such authority under previous documentation on file with the Bank.

The person acting in the capacity of the Corporate Secretary or custodian of records of the Business Entity signing in Section VIII below certifies to SunTrust Bank ("Bank") that the above named Business Entity is organized under the laws of the State of Virginia and is registered in the manner prescribed by applicable law and is currently in compliance with all requirements relating to its organization and continued existence.

This DARA shall remain in full force and effect until it is rescinded, modified or replaced in writing in a form acceptable to the Bank and the Bank has had a reasonable time to act on said change. Receipt of such notice shall not affect any action taken by Bank prior thereto. The Bank shall be held harmless for honoring the instructions of any individual authorized in this DARA, or refusing to honor instructions, if the Bank questions the authority of the person giving those instructions.

II. Authority to sign, act, give instructions, access information, use Bank's services, perform transactions, enter into agreements and delegate authority on behalf of Business Entity. Resolved, First, that Bank is designated a depository for the Business Entity; Second, that each individual named in Section III below is authorized individually on behalf of Business Entity to: a) give instructions to the Bank, b) access information, c) request use of and use any of the Bank's services upon execution of Bank documentation related to such services, d) perform transactions on behalf of Business Entity with respect to any Accounts of Business Entity upon execution of Bank documentation related to such transactions, e) enter into any of Bank's agreements related to any Account or service, and f) delegate to any other individual the authorities conferred in this section in documentation acceptable to the Bank; Third, that each Authorized Signer named in Section III is individually authorized to endorse for deposit any check, draft, certificates of deposit, savings certificate, item or other instrument or written order for the payment of money that is payable to the order of Business Entity, and to deposit any such items; provided, however, an Authorized Signer shall not have any of the authorities of an Additional Signatory described in Section V unless such Authorized Signer is also listed with the additional signatories on the Business Account Signature Card for the relevant Account(s); Fourth, that by execution and delivery of this DARA by the Corporate Secretary or other custodian of records (or by any Authorized Signer named in Section III below), the Business Entity is bound by the terms and conditions of the Bank's Rules and Regulations for Deposit Accounts, as now existing or as amended from time to time; and Fifth, all previous acts of or on behalf of the Business Entity that are authorized and contemplated by the above resolutions that may have been undertaken prior to the date of this DARA are hereby approved and ratified.

III. Authorized Signers Contemplated by Section II.

The full name, title, and signature of each person authorized by Section II are listed immediately below. If an Authorized Signer listed in Section III is an entity (e.g., a corporation, LLC, or partnership), the name of that entity must be entered in the column headed "Name", the applicable title of the entity showing the relationship to the entity named in Section I (e.g. Owner, General Partner, Member or Manager) must be entered in the column headed "Title", the name of the individual signing on behalf of that entity and individual's title or position must be entered in the column headed "Signature", and the individual must sign directly underneath his/her name and title. Where an entity is listed in Section III, the individual signing on behalf of that entity must provide a document (such as an incumbency certificate or current organizational document from that entity) reflecting the individual's current authority to sign on behalf of the entity. ALL INDIVIDUALS from the entity listed in Section III who are expected to be Authorized Signers for the entity named in Section I of this DARA must be listed in and sign Section III of this DARA.

Name	Title	Signature
Cameron S. McCormick	Interim Director of Finance	
Richard R. Johnson	Treasurer	

Employee Name	Laura Grosvenor	Account Number	
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Name	Title	Signature

IV. Facsimile Signatures. Complete this section only if machine or facsimile stamped signatures are to be used on items. Resolved, that Bank is authorized to honor any check, draft, item or other written order on any Account of the Business Entity when bearing or purporting to bear the authorized machine or facsimile signature of any one of the above named Section III Authorized Signers whose signature is reproduced below, **if such Authorized Signer's name is also listed with the additional signatories on the Business Account Signature Card for such Account.** The Business Entity shall hold the Bank harmless for honoring the facsimile signature of any of such Authorized Signer whose name and facsimile signature is shown below, or for Bank's refusal to honor any facsimile signature not shown below.

Name of Authorized Signer Listed in Section III	Machine/Facsimile Stamped Signature of Authorized Signer

V. Additional Signatories on Business Entity's Accounts. Resolved, that certain individual(s) may be authorized to have limited authority to do **only the following things:** access information, sign any check, draft, or other written order for the payment of funds from an Account, or initiate a funds transfer payable by Business Entity from an Account by executing Bank's Funds Transfer Authorization form. Such authorities shall be Account specific and such individual's name and signature must appear on the Business Account Signature Card for each Account on which the individual is intended to be so authorized. **The tax classification and certification section at the bottom of each Business Account Signature Card must be executed by one of the Authorized Signers named in Section III above. Refer to the Business Account Signature Card(s) of the Account(s) for signatures of the Additional Signatories.**

VI. Qualification Certification for Public Fund Organization, Political Organization, Homeowners and Condominium Owners Association or Corporation Not Operated for Profit to maintain a NOW account.

Mark this section with an "X" only if Business Entity is eligible to maintain a NOW account.

☐ The individual acting in the capacity of Corporate Secretary or custodian of records of the Business Entity further certifies that the above named Business Entity is eligible to earn interest on a checking account (referred to as a Negotiable Order of Withdrawal or NOW Account) in compliance with Regulation D of the Federal Reserve Act (12CFR 204) as a Public Fund or a Non-Profit Organization that is operated primarily for Religious, Philanthropic, Charitable, Educational, Political or other similar purposes under one of the following sections: Organization – Section 501 (C) (3) through (13), and (19) of the Internal Revenue Code (26 USC (IRC 1954) 501 (C) (3) through (13) and (19). Political Organization – Section 527 of the Internal Revenue Code (26 USC (IRC 1954) 527). Homeowners and Condominium Owners Associations – Section 528 of the Internal Revenue Code (26 USC (IRC 1954) 528).

VII. Power to Act. The individual acting in the capacity of Corporate Secretary or custodian of records of the Business Entity who executes Section VIII below certifies that this DARA is not in conflict with the provisions of the Business Entity's organizational documents, which include its charter, bylaws, resolutions, operating agreements, partnership agreements, shareholders' agreements or similar agreements by which the Business Entity or the undersigned party may be bound, and that this DARA does not violate the provisions of any of such organizational documents.

VIII. Certification. I, the individual signing in this Section VIII, acting in the capacity of the Corporate Secretary or custodian of records of the Business Entity for purposes of such signature in this Section VIII, hereby certify to the Bank that the authorization of each individual whose name appears in Section III above is in full force and effect and has not been amended or rescinded and that the above resolutions are not inconsistent with any other resolutions or governance documents of such Business Entity.

In witness whereof, acting in my capacity as the Corporate Secretary or custodian of records of ^{2ND} Business Entity, I have hereunto subscribed my name and affixed the seal of the Business Entity this 2ND of July '2018

(Affix Seal here, if available)

Suzanne F. Simmons
 Authorized Signature
 Suzanne F. Simmons, Clerk of Council
 Name of person acting in capacity of Secretary, Assistant Secretary or other custodian of records, as designated in the Business Entity's organizational documents

Employee Name Laura Grosvenor Account Number

IX. Inclusion and Certification Requirements and Instructions.

Corporations, Limited Liability Companies, Public Entities, Partnerships, Sole Proprietors, Unincorporated Organizations, Associations and other business entity types:

Each individual from the Business Entity who is expected to have the powers specified in Section II must be named in Section III if the Board of Directors or other governance body of the Business Entity intends such individual to be authorized to perform the functions specified in Section II.

Such individuals can include the President and other corporate officers such as the Treasurer, the Chief Financial Officer, and the Controller of the Business Entity, or any other individual that the entity wishes to designate.

Any of the individuals listed in Section III can execute the DARA under Section VIII if necessary, but only if the entity named in Section I has no employee who has been designated as its Corporate Secretary or custodian of records.

Note: This document will be returned to the Branch or other sending location if the signature block in Section VIII is not properly completed.

Bank Use Only

Bank Number 0175	Cost Center Number 4432200	Cost Center Name WVA NOT FOR PROFIT GILCHRIST	
Prepared By Laura Grosvenor		Phone Number 434-847-2305	Date
Verification Method			

Employee Name Account Number

- Locations with DCOR scanning software submit with cover sheet via local scanner
- Locations without DCOR scanning software send to Output Review, FL-Orlando-7021

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	July 12, 2018	Staff Member: Steve Owen
Item #	A	
Ordinance #		
Department:	City Manager	
Council Vision:	Responsive, Efficient Government	
Subject:	Staff Recognition	

Background: Retired Chief Financial Officer Jeanne Colvin will attend Council's regular meeting to receive recognition on the occasion of her recent retirement from City service.

City Manager's Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Stephen F. Owen