

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL  
FOR THE CITY OF FALLS CHURCH, VIRGINIA  
HELD IN THE COUNCIL CHAMBERS,  
300 PARK AVENUE AT 07:30 P.M.  
Monday, December 9, 2013

These are summary minutes. The full video of the City Council Meeting may be viewed on the city website at [www.fallschurchva.gov](http://www.fallschurchva.gov) under City Council Meetings.

**CALL TO ORDER**

Mayor Baroukh called the meeting to order at 7:38 p.m., followed by the Pledge of Allegiance to the Flag.

**ROLL CALL**

At roll call, the following members were present: Ms. Barry, Mr. Duncan, Mr. Kaylin, Mr. Tarter, Vice Mayor Snyder, and Mayor Baroukh. Mr. Peppe was absent.

Also present were City Manager Wyatt Shields, Interim City Attorney Pat Taves, and City Clerk Kathleen Buschow.

**VALIDATION OF NOTICE OF SPECIAL MEETING -- None.**

**ADOPTION OF MEETING AGENDA**

The Mayor noted that there would one item added to the Agenda under *Business Not on the Agenda* later in the meeting.

**MOTION:** Ms. Barry MOVED, seconded by Mr. Kaylin, to adopt the meeting Agenda as revised. The Agenda was adopted on voice vote without objection.

**PROCLAMATIONS**

**Presentation to Hon. Mary Margaret Whipple ( Mayor)**

Mayor Baroukh read the plaque for Senator Mary Margaret Whipple to honor her service to the City as Senator in the General Assembly. Mayor Baroukh said the Council would have comments at the end of the presentations.

**Presentation to Hon. James Scott (Mayor)**

Mayor Baroukh read the text on the plaque for Delegate James Scott. Del. Scott thanked the City Council and the citizens of the City. He said it had been a special thrill to work with this community and Members of Council. Delegate Scott was presented with his plaque at the dais.

**Council Comments.**

Mr. Snyder commented on the long service of Senator Whipple and Delegate Scott. He said they were always there for the City of Falls Church when it needed them. The City knew it had representatives in Richmond willing to speak for Falls Church. Mr. Snyder thanked each of them for the work they each did in their areas of special interest such as transportation, etc.

Mayor Baroukh said they both had represented the City extremely well. The Mayor said he echoed Mr. Snyder's comments and recounted a story from a law school colleague about Delegate Scott's qualities.

### **Oath of Office to Newly Elected City Council Members (City Clerk)**

The City Clerk gave the Oath of Office to the newly elected City Council Members: Marybeth Connelly, Karen Oliver, Dave Snyder, and Dan Sze. They signed their oath forms and were presented to the public at the dais.

Board of Elections Chair Margarett Shovlin then presented the Certificate of Elections to the newly elected City Council Members.

### **Presentations to Outgoing City Council Members (Mayor)**

Mayor Baroukh read the text on plaques for Johannah Barry and Ira Kaylin before presenting them. He also read the plaque for Ron Peppe, who was absent on work travel.

### **Council Comments.**

Mayor Baroukh thanked all of the outgoing Council Members for the services they had provided to the citizens and community.

Mr. Snyder said the three Council Members were leaving their term on a high note. He commented on the financial stability of the City. He commented on the expertise of Council Member Barry in environmental issues; and Council Member Kaylin's expertise in financial and management issues, along with his stewardship of the Council's Economic Development Committee. Mr. Snyder said that Mr. Peppe had a distinguished career in public service for many years, in both Virginia and Maryland, which had contributed to the success of this Council.

Mr. Duncan said he seconded the remarks of Mr. Snyder regarding Mr. Peppe's level head and common sense approach. He hoped Mr. Peppe would continue to play a role in the City. Mr. Duncan said he had served with Ms. Barry on the Council Appointments Committee and was impressed with the commitment she had shown to that task as Chair. He said she was encouraging and nurturing of the people coming forward to volunteer. He mentioned the PED Plan -- now known as the *Mobility for All Modes Committee* - which Ms. Barry had worked with extensively. He said that having someone from the non-profit sector on Council, like him, was heartening because he and Ms. Barry looked at budgets from a different perspective. Mr. Duncan said he knew Mr. Kaylin would continue to be active in the City and he hoped the Council

would be able to benefit from his expertise. He said Mr. Kaylin had poured a lot of energy into this community and was the very definition of a public servant. Mr. Duncan also thanked Mr. Kaylin for all of his work in economic development.

Mr. Tarter said he would echo what had been said about Ms. Barry and Mr. Kaylin. He said this had been a very productive Council term with three grocery stores to be opening in the City soon. Mr. Tarter said the water sale was a huge accomplishment and the additional land could really benefit the Schools. He also noted the new development in the downtown area, new bus stops, and widened streets that were a product of the Council's work.

Mayor Baroukh said that leaving the community a better place than when they started was true of the three departing Council Members. He said that when they started their terms they were facing some very difficult financial times. Mr. Kaylin and Ms. Barry helped put into place budget policies and guidance through the work of the Council Budget and Finance Committee. They were leaving the City in a much better financial situation than when they began. The Mayor noted that Ms. Barry had volunteered for everything when it came to serving on boards and commissions. She also led in regional efforts, most significantly with regard to environmental issues. Mayor Baroukh said that Mr. Peppe had brought a crisp, sharp mind to matters in discussions on the water sale. The Mayor said he and Mr. Kaylin were friends before he came on Council and they would continue to be friends; he had kept the Mayor on his toes. Mr. Kaylin had helped the City to arrive in a much better financial condition and a much better place because of his efforts.

Ms. Barry thanked everyone for their kind words and said it had been an honor to serve on this Council. She thanked this Council -- and past Councils -- for their wisdom and guidance. Ms. Barry noted that the Council had done a lot for economic development and she thanked the staff and citizens for their support.

Mr. Kaylin thanked everyone for their generous comments, especially Mr. Duncan for his kind remarks. He said he wanted to take this opportunity to discuss a key issue facing the new Council. Mr. Kaylin summarized some of the many accomplishments achieved over the past 3 1/2 years: overcoming the economic decline; achieving the AAA rating the City now enjoyed; strengthening the City's financial structure; and deciding to sell the water system, a decision not taken lightly. Mr. Kaylin said that following the court's decision, the water system went from being an asset to a liability – overnight. He said decisions on the system were reached after intense closed session meetings. Mr. Kaylin said the newly established stormwater management system enterprise fund was a proactive measure. He noted the approval of the Harris Teeter project in the downtown area and said that, going forward, he believed the development paradigm needed to be revisited. He discussed the issue of development being the City's salvation, School enrollment, and economic development. Mr. Kaylin said the City should continue with area development plans and he discussed the tipping points on economic development. He said the needs of residents without children should be taken into account, with regard to taxes and a path to fairness. Mr. Kaylin also announced that parking would be available for New Year's Eve at the Kaiser Permanent garage.

Mr. Shields thanked the Council on behalf of all City staff. He said this Council had been unique in challenging everyone with making decisions for the long term. He had learned a lot from this Council and he hoped they would look back on their accomplishments with pleasure.

Mayor Baroukh noted that Pat Taves was now serving as the Acting City Attorney.

Mr. Snyder said the families of the past, present, and future public officials needed to be thanked as well. He added that the distinction between public official and citizen was non-existent.

### **OATH OF OFFICE TO NEW BOARD AND COMMISSION MEMBERS**

The City Clerk gave the Oath of Office to Lindy Hockenberry for the Planning Commission, and to Chuck Anderson for the Architectural Advisory Board.

**RECEIPT OF PUBLIC COMMENTS, REQUESTS, AND CONSENT ITEM COMMENTS. [The public may address Council for one 3-minute period. The Mayor may shorten the time allowed each speaker, depending on the length of the agenda and number of speakers. A chair or representative of a board, commission, or committee may make a 5-minute oral summary of the written report.]**

### **Summary of Written Comments.**

The City Clerk summarized written comments as follows:

#### Water Sale Proceeds

Frederic Foss (119 E. Jefferson St.) believes the Council should use the proceeds from the sale of the water system to reduce property taxes in the City.

Kieran Sharpe (408 S. West Street) requested the Council to consider other options for use of the Water Utility Sale proceeds besides the pension fund. He has suggested investing in a high-quality preschool for an investment that would reduce the incidence of welfare and criminal behavior and boost earning capacity in the long run; and perhaps expanding to year-round schools.

#### Citizens United Resolution

One voice mail was received from a woman requesting that Council to pass the Citizen United Resolution. The name was unclear and there was no address or phone number given.

### **Council Requests**

Mr. Duncan asked Mr. Shields about a December 19th hearing by Fairfax Water on rates. He also asked that OCOM share information on what the hearing was about. Mr. Shields said the intention of Fairfax Water was to continue the current rate structure for the upcoming year and ultimately, in two years, lock in the City rate with the rest of Fairfax Water's customers.

Mr. Tarter asked why the rates would not drop in the next two years. Mr. Shields said

they were working on their financial analysis in order to make the adjustment in two years.

Mr. Kaylin said that was part of the Agreement with Fairfax Water and it was hard to imagine that it would disrupt the financial well-being of Fairfax Water.

**OATH OF OFFICE TO NEW BOARD AND COMMISSION MEMBERS** – None.

**RECEIPT OF PUBLIC COMMENTS, REQUESTS, AND CONSENT ITEM COMMENTS. [The public may address Council for one 3-minute period. The Mayor may shorten the time allowed each speaker, depending on the length of the agenda and number of speakers. A chair or representative of a board, commission, or committee may make a 5-minute oral summary of the written report.]**

Kathy Kleiman (203 Grove Avenue) commented on proposed development near West End Park. She said there would be a meeting with the neighbors about changes in West End Park, and at the end of Grove Avenue -- next to 7-11 and Lazy Sundae – where a four acre development was being proposed. Ms. Kleiman said a lot was happening in that area and asked if the City was thinking about the priorities for that area and re-evaluating master plans. She requested that the City create a small area development plan for the west end.

Mayor Baroukh said he and Vice Mayor Snyder might have a conflict with the Citizens United matter so he passed the gavel to Ms. Barry for the next speaker to come forward.

Brian Siebel (602 Oak Haven Drive) said he spoke two weeks earlier at the Council meeting and he commented on a court case about corporations having religious rights that would neuter health care regulations. He questioned how far the concept of corporations as people might go if not checked and said there was little disclosure about what was being spent in this arena. He thanked the Council for considering this issue and taking democracy back so it would not be money-dominated.

Debra Z. Roth (503 N. Roosevelt Blvd.) said that when fellow citizens wanted to make changes in their government they came before their citizenry Council, but the Citizens United case had corporations being treated like individuals, with exemptions that allowed the corporations to use dollars to affect change. She said *Move to Amend* was not anti-business and this was a constitutional amendment to overturn the Citizens United decision.

Julie Ide (601 Jackson Street) said she was one of the citizens that signed the petition to support a constitutional amendment to overturn the Citizens United decision and change campaign financing. She said the impact of the Citizens United decision affected all Falls Church citizens.

At the end of the comment period, Mayor Baroukh returned as meeting chair.

**REPORT OF CITY MANAGER TO COUNCIL**

New Public Works Director. City Manager Wyatt Shields introduced Mike Collins, the new Public Works Director, who came to the City from employment with Arlington County. Mr. Shields thanked Cindy Mester for her service as the Acting Public Works Director, which she handled along with all of her other assignments.

Snow Removal. Mr. Shields thanked Public Works employees for their response in treating the streets and removing downed trees in the parks with the recent snow and ice storm. Mr. Shields noted that City crews would not remove a tree on power lines; that would be handled by Dominion Power. He said 92 households were still without power and he urged residents to call Dominion Power, so the utility would know where all of the power outages were located.

Public Utilities Employees. Mr. Shields reported that the City would recognize the 55 water employees and retirees at an event on the following Friday morning, which everyone was invited to attend.

Council Chambers. Mr. Shields reported that Council Chambers would be renovated over the holiday break.

Holiday Trash Pick-Up. Mr. Shields announced that when the Wednesday trash pick-up day falls on a holiday, the trash is removed on Saturday. Therefore, for both Christmas and New Year's Day the trash pick-up would be on the following Saturday.

Mr. Tarter asked Mr. Shields for an update on the transformers at the Schools. Mr. Shields said three of the four Schools were without power that day and he did not have information on the status of power restoration.

## **BUSINESS ON THE AGENDA**

### **Second readings of ordinances and other items requiring public hearings**

**[\(TO13-27\) ORDINANCE TO AMEND CHAPTER 48, "ZONING," ARTICLE V, "SUPPLEMENTARY REGULATIONS," DIVISION 1, "GENERALLY," TO ADD SECTION 48-869, "MOBILE FOOD SERVICE." \(Nancy Vincent, Director of Housing and Human Development\)](#)**

 [\(TO13-27\) Ord re Mobile Food Services](#)

City Manager Wyatt Shields summarized the following staff report presented to Council. Director of Housing and Human Services Nancy Vincent noted the one change on the fees ordinance with the addition of the word "annual."

#### *Staff Report*

REQUEST: Council is requested to amend Chapter 48 Zoning, Article V, Supplementary Regulations, Division 1, Generally, to add Section 48-869 Mobile food service. This ordinance is before Council for second reading.

**RECOMMENDATION:** Staff recommends adoption of the ordinance on second reading.

**BACKGROUND:**

The attached ordinance was reviewed by the Planning Commission on November 18, 2013. They voted to recommend that City Council approve TO13-27 allowing mobile food service units to operate in the City.

The major components of the Mobile Food Service Ordinance are:

- Mobile food vending is restricted to the B-1, B-2, B-3, O-D, and M-1 districts.
- The Unit may not occupy a public right-of-way.
- The vendor must have written consent of the property owner where the unit will operate.
- An Occupancy Permit must be obtained from the City.
- Operations are limited to three hours per day per location.
- Exemptions for permitting requirements and on location restrictions will exist for civic and other events.

**FISCAL IMPACT:** None.

**TIMING:** Immediate.

Mr. Snyder noted that the proposals regarding mobile food services had been worked out with the existing businesses and restaurants, and the Falls Church Chamber was also involved in the process.

Mr. Tarter asked if this could be looked at again in one year to see how it had worked and if there were there any complaints, etc. Ms. Vincent said the study group had recommended a revisit in one year.

Mayor Baroukh raised questions about food carts on private property. He asked if they could be on property for festivals, etc. The City Manager said that was permissible for a special event on public rights of way at the discretion of the staff. Ms. Vincent said vendors could also apply to participate in the Farmers Market. Mayor Baroukh asked if there was a cut-off time for operations within the 24-hour period. Mr. Shields said there were no restrictions on the time of day for operation. The Mayor said that might need to be given some thought and noted the complaints made at the Gateway project where food trucks were there in the morning for breakfast. He believed the hours of operation and parking would eventually become an issue and asked if this could come back for amendments, in the near future, to address the issues of overnight parking on a given site and the hours for operation.

Mr. Tarter asked about fines for illegally operating a food cart. Ms. Vincent said the fine was significant. Mr. Tarter's concern was that the City was making vendors purchase a license for \$250 and he did not want offenders to get off without paying the penalty.

**MOTION:** Mr. Tarter MOVED, seconded by Mr. Duncan, to approve (TO13-27) on second reading with the request that the City Manager provide a report of its implementation within a year of today's date (12-09-13).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Ord.1912 ) (Mr. Peppe was absent.)

**(TO13-28) ORDINANCE TO AMEND CHAPTER 15, "FEES," ARTICLE I, "IN GENERAL," TO ADD SECTION 15-2, "MOBILE FOOD SERVICE FEES." (Nancy Vincent, Director of Housing and Human Development)**

 [\(TO13-28\) Ord. re Mobile Food Service Fees](#)

Council was presented with the following staff report for consideration.

*Staff Report*

REQUEST: Council is requested to amend Chapter 15, Fees, Article I, In General to add Section 15-2 Mobile Food Service fees. This ordinance is before Council for second reading.

RECOMMENDATION: Staff recommends adoption of the ordinance on second reading.

BACKGROUND: A Mobile Food Service Unit Study Group made up of representatives from the Chamber of Commerce, City restaurants, Health Department, and City staff recommended that an annual fee of \$250 be charged to Mobile Food Service vendors. This fee would cover the cost of administration and enforcement.

For the sake of clarity, staff recommends that the word "annual" be inserted in the ordinance. This would be a change from the first reading, but it does not represent a change in substance, because the proposed companion ordinance requiring payment of the fee provides that it must be paid annually.

FISCAL IMPACT: \$250 per mobile food service unit revenue.

TIMING: Immediate.

There were no further questions from Council.

**MOTION:** Mr. Duncan MOVED, seconded by Ms. Barry, to adopt (TO13-28) on second reading.

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.



**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Peppe: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Ord. 1913) (Mr. Peppe was absent.)

**(TO13-30) ORDINANCE TO ALIGN THE REAL ESTATE TAX YEAR WITH THE FISCAL YEAR (City Manager Wyatt Shields) [defer to January 13, 2014 for second reading to allow for proper advertising]**

 [\(TO13-30\) Align R/E Tax Year with FiscalYear](#)

The Clerk recommended that the item be held over for second reading until January because she did not properly advertise it.

The Mayor provided a brief summary of the staff report before Council. He said it was very important for Council to align the years for a variety of reasons; particularly to provide better accuracy in the numbers with fewer variables.

Staff Report

REQUEST: Council is requested to defer (TO13-30) to January 13, 2014 for second reading and public hearing because it has not been advertised accordingly to law for final action on December 9.

RECOMMENDATION: Defer item to January 13, 2014.

BACKGROUND: Currently, the City tax year begins January 1 and the fiscal year begins July 1. The City regularly experiences significant revenue uncertainty due, in part, to the fact that the tax year for real estate is not aligned with the City's fiscal year. Bringing the City tax year and fiscal year into alignment, as other localities have done, would restore certainty to real estate revenue forecasting in the annual budget process.

Real estate taxes account for 60% of total City revenues. Last year, the City Council requested and the General Assembly approved a Charter change to allow the City to align its tax year and its fiscal year. Consideration of the merits of making this change is on the Council Work Plan for the current year.

The City Council adopts a budget and a tax rate necessary to fund that budget in April of each year. The tax rate adopted in April applies, however, to the second half of the current fiscal year, and the first half of next fiscal year. The second half of the fiscal year is subject to change in both the assessed value of real estate as well as the real estate tax rate. As a result,

forecasts are often significantly different from actual results for the second half of the every fiscal year.

Example 1: falling real estate values. In 2009, the assessed value of real estate fell by 10%, but the budget adopted for that fiscal year assumed that real estate values would be flat in the 2nd half of the fiscal year. The City had to make significant mid-year cuts and draw on fund balance.

Example 2: rising real estate values. In 2004, real estate values went up by 25% in one year. but the budget assumed 8% growth in assessed value for the second half of the year. A sizeable surplus was the result.

In each example, the City Council adjusted tax rates in the subsequent budget cycle. As it did so, however, we had to be mindful that its decision on the tax rate for the upcoming budget also had a significant impact on the finances of the current fiscal year. Attention is naturally focused on the coming budget year during budget adoption, and it is confusing to the public (and aggravating for elected officials) to have to consider the unintended consequences to the current fiscal year of any tax rate changes.

The misalignment stems from a decision many local governments in Virginia made decades ago. Prior to 1994, the City collected real estate taxes in two billings – the 1st bill in July and the 2nd in December. With that billing schedule, the misalignment of tax year and fiscal year caused none of the problems described above, as both billings were collected in one fiscal year.

In the mid-90's, the City moved the July billing back one month to June. By doing so, the City realized a one-time financial benefit of three real estate collections in one fiscal year. If the City moves the June billing back to July, the City would experience a one-time loss of ½ of the annual RE tax receipts (approximately \$18 million) in that fiscal year, which presents a tremendous obstacle to that option.

**Proposed Solution:**

Several Cities in Virginia (Salem, Manassas, and Harrisonburg, for example) have addressed this problem by delaying the effective date of real estate assessments and tax rates to July 1. By doing so, when the Council adopts a budget and a tax rate, one assessed value and tax rate applies to the entire fiscal year.

Most Cities and many Counties in Virginia have the misalignment in tax year and fiscal year that exists in the City of Falls Church and are content with it. Several Cities have taken action to bring them functionally back into alignment. The ordinance below is modelled after those adopted by these Cities.

**FISCAL IMPACT:**

There is a one-time financial cost to bringing the Tax Year and Fiscal Year into alignment. Currently, when the Chief Financial Officer forecasts revenues for the coming fiscal year, he projects what the assessed value will be for the June bill. In the FY15 budget forecast presented to the School Board and City Council on November 14, the assumed growth in assessed value for the June 2015 Real Estate bill was 1.5%. If that assumption were changed to 0% growth (i.e., the same assessed value is used for the December bill and the June bill), the revenue decrease for FY15 will be revised down by approximately \$400,000. This number reflects the cost to the City of delaying the benefit of a tax rate increase or an assessed value increase to the City coffers from June 2015 to December 2015. Once the transition is made, there is no recurring annual fiscal impact to the change.

Fund Balance and Pay as You Go Capital: The City will need to build into its operating budget appropriations for capital projects. In the City's history, the unplanned surpluses generated by the misalignment of tax year and fiscal year are programmed through the CIP for "pay as you go" capital improvements. Surpluses will largely end with this change, and it will be necessary to build "pay as you go" capital into the tax rate, rather than rely on surpluses.

Deficits and Surpluses: As large surpluses will become a thing of the past, so will large mid-year deficits. The variance from revenue projections will still come from sales, meals, BPOL and other local taxes, but these sources of revenue generate 25% of total revenue, whereas RE generates 60% of revenue.

Certainty in Forecasting: The current misalignment of the tax year and fiscal year builds uncertainty into the annual budget and financial condition of the City. Either surpluses or deficits tend to erode confidence in the financial management of the local government. Compounding the uncertainty, when Council adopts a tax rate for the coming fiscal year, it also must consider the impact on the current fiscal year.

TIMING: Routine.

Attachments: None

**MOTION:** Mr. Duncan MOVED, seconded by Ms. Barry, to defer (TO13-30) to January 13, 2014 for public hearing and advertise the same according to law.

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

*Council Comments.*

Mr. Kaylin said he hoped the new Council would seriously consider this. It was an important change that would help with the confusion over the issue of budget "surplus." He believed it would be good for the citizens to know that the Council was trying to make sure there were no funds left over at the end of the budget year.

Mr. Duncan said he strongly agreed with the Mayor's and Mr. Kaylin's remarks and he urged his fellow Council to support the ordinance.

Mr. Tarter said he hoped that the Council could also have a discussion at second reading about how they would fund this one-time change-over and said he would like some suggestions for that at the next meeting.

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES

Mr. Duncan: YES

Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Mr. Peppe was absent.)

**Resolutions and first readings of ordinances**

**(TR13-41) RESOLUTION PROVIDING GUIDANCE TO THE CITY MANAGER ON THE DEVELOPMENT OF THE FY2015 CITY BUDGET (Mayor Baroukh)**

 [\(TR13-41\) FY15 Budget Guidance to City Manager](#)

City Manager Wyatt Shields summarized the following staff report presented to Council.

*Staff Report*

REQUEST: Council is requested to adopt the Council's annual budget guidance statement for the City Manager for the development of the FY2015 Budget.

RECOMMENDATION: Staff recommends adoption of the resolution.

BACKGROUND: At its joint work session with the School Board on November 14, the two elected bodies reviewed initial staff projections for revenues and expenditures for FY15. We reviewed multiyear projections on the impact of the adopted Five Year Capital Improvements Program, as well as certain revenue drivers associated with economic development. Enrollment trends were presented by the Superintendent, which will constitute a cost driver in FY15 and beyond.

The City Finance Office projects over all revenue growth (absent any change to tax rates) for FY2015 to be approximately 3.8%, or \$2.8 million, higher than the current fiscal year.

At the November 14 planning work session, the Council and School Board discussed school enrollment growth and its impact on costs. For illustrative purposes, if the school division requests a 10% funding increase relative to FY14, there would be gap of \$1.7 million. This would need to be closed through an increase in tax rates or cuts to programs and services.

The attached resolution reflects Council discussion at its Work Session on November 18 and December 2.

The text highlighted in **yellow** reflects changes to the Statement from the most recent work session on December 2. Those changes include:

- Adding the word excellent at line 7.
- The call for options for a level tax rate is moved to the earlier paragraph calling for general government expenditures to be covered by revenues from economic growth only. Language calling for "Taking a whole City approach to reducing costs" is added to this provision (line 23).
- There was a request that the CIP be kept whole in the event that spending cuts are required to balance the budget. The statement addresses this in the paragraph at line 42 and 45, and line 26.

- Address the loss of the administrative cost allocation without an increase in the tax rate (line 79).

In addition, the statement reflects changes that were included in the December 2 draft. These include.

- Adding language in the introduction that affirms the City Council's vision for strong schools and core governmental services and adopted financial policies. (Line 7)
- Match the NVTA 30% (line 51)
- For the CIP, sharpen the five year plan with as accurate numbers as possible for project costs. (Line 54)
- Maintain fund balance at policy targets and follow financial policies. (Line 57)
- Provide options for enhancing real estate tax deferral for seniors (line 69)

### **FY15 Budget Development Schedule**

The City budget development process is built to provide many opportunities for the participation and input of the City workforce and City taxpayers. The months of January and February will be used by the City staff to develop budget recommendations for the City Council on the General Government Operations; the School Board to develop its budget and transfer request; and the Planning Commission to review and recommend a Capital Improvements Program. The City Manager will present the FY15 Operating Budget and Five Year Capital Improvements Program recommendations to the City Council on March 10, 2014. The City Council is scheduled to adopt a budget, after many public hearings, town hall meetings, and work sessions, on April 21, 2014. The FY15 Budget will go into effect on July 1, 2014.

The Budget Guidance Statement is a useful as a guide to management and staff as it undertakes the budget process.

**FISCAL IMPACT:** The Resolution provides early guidance for budget development, with the ultimate budget decisions being determined by the City Council with budget adoption in April, 2014.

**TIMING:** Immediate. The City Manager will provide budget guidance to City department directors and staff in December.

**MOTION:** Ms. Barry MOVED, seconded by Mr. Duncan, to adopt (TR13-41) as amended.

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

### Council Comments.

Mr. Snyder said that while this was a useful and interesting exercise, the next Council would make the decisions on the budget, and policy guidance could change. It was a useful way to begin the process and it reflected what he believed to be important -- to maintain an adequate balance while also maintaining the excellent quality of the City's schools and services.

Mayor Baroukh agreed with Mr. Snyder and said it was unfortunate that they would have to act on the budget guidance before the new Council was seated, but it was

important, given the schedule. He said it would be important to have enough work sessions to discuss the budget before getting down to line items.

Mayor Baroukh made the following amendments to the resolution at line 25:

**o The CIP should be a main focus. Every effort should be made to hold the non-referendum CIP harmless, and required reductions in spending should not come through deferring required maintenance or deferring investment in infrastructure projects in the CIP that would increase City costs in the long run.**

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Res. 2013-39) (Mr. Peppe was absent.)

**(TR13-44) RESOLUTION AUTHORIZING THE DEFEASANCE AND REDEMPTION OF ALL OR A PORTION OF CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY OF FALLS CHURCH, VIRGINIA AND SETTING FORTH THE DETAILS THEREOF AND THE PROVISIONS THEREFOR (Richard LaCondre, CFO and Director of Finance)**

 [\(TR13-44\) Res. re Bond Defeasance](#)

City Manager Wyatt Shields summarized the staff report before Council. He said that at the time of closing on the sale of the water system, on January 3, 2014, a structure would be created to set aside funds from the sale to defease that water debt. Based on current interest rates, the total debt would be \$18.5 million, which was lower than previously projected.

Staff Report

**REQUEST:** Council is requested to adopt a resolution authorizing the defeasance of certain general obligation bonds that were issued to finance or refinance portions of the water system.

**RECOMMENDATION:** Staff recommends that the City Council adopt this resolution.

**BACKGROUND:** On November 5, 2013, the voters of the City of Falls Church, Virginia (the "City") approved the sale of the City's water system to the Fairfax County Water Authority for, among other things, \$40 million. As part of that pending sale, the City will need to defease and redeem outstanding bonds that were issued to finance portions of the water system.

All or a portion of the following general obligation bonds of the City were issued to finance or refinance portions of the Water System:

- (i) General Obligation Public Improvement and Refunding Bonds, Series 2011 (the "Series 2011 Bonds") issued on December 22, 2011 in the original aggregate principal amount of \$8,570,000;
- (ii) General Obligation Bond, Series 2011 (the "2011 Local Bond") issued on May 2, 2011 in the original principal amount of \$5,500,000 and purchased by Virginia Resources Authority ("VRA");
- (iii) General Obligation Bond, Series 2009B (the "2009B Local Bond") issued on November 19, 2009 in the original principal amount of \$5,385,000 and purchased by VRA; and
- (iv) Taxable General Obligation Bond, Series 2007 (the "2007 Local Bond" and, together with the Series 2011 Bonds, the 2011 Local Bond and the 2009B Local Bond, the "Targeted Bonds") issued on November 13, 2007 in the original principal amount of \$8,220,000 and purchased by VRA.

The City's bond counsel has drafted the proposed resolution below. By adopting the resolution, the City Council will authorize the defeasance of these bonds from the proceeds of sale of the City water system.

**FISCAL IMPACT:** The defeasance of the bonds will be out of the proceeds of sale of the water system. There will be no impact to the City's general fund.

**TIMING:** The resolution should be adopted at the City Council's December 9, 2013, meeting.

Mr. Kaylin asked where this transaction showed up on the City's financial statements. Mr. LaCondre said this transaction was in the notes of the CAFR and the moment the sale was concluded the proceeds would be automatically transmitted; they would not run through the City's financials. Mr. LaCondre said the debt would become the property of the trustee and the City would be cleared of that debt.

**MOTION:** Ms. Barry MOVED, seconded by Mr. Kaylin, to adopt (TR13-44).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Res. 2013-40) (Mr. Peppe was absent.)

**(TR13-42) RESOLUTION EXPRESSING THE GOALS OF THE**

**CITY COUNCIL FOR THE USE OF WATER SALE PROCEEDS (Wyatt Shields, City Manager; Richard LaCondre, CFO and Director of Finance)**

**(TR13-42) Goals of Council for Use of Water Sale Proceeds**

Mr. Shields summarized the staff report before Council. He said the staff was projecting \$14 million in proceeds from the sale of the water system, but that was not a finite number and would change as they finalized the unfunded liability for the pension, unfunded defeasance of the debt, legal bills, payout of accrued leave for employees, etc. Although the number would change, they did not expect it to go below \$14 million. There had been discussions with the Council's Budget and Finance Committee and with Council at work session about broad scenarios and strategies for the use of the proceeds. He said the Council had expressed a desire to use the proceeds for the benefit of the City, its taxpayers, and for the broad public interest; that it be for the long-term -- an investment that would generate a long-term benefit for the citizens and taxpayers of the City. He said several different scenarios had been discussed.

**Staff Report**

**REQUEST:** Council is requested to adopt a resolution that establishes the goals for the use of the proceeds from the sale of the City Water System to Fairfax Water.

**RECOMMENDATION:** Staff recommends that the City Council adopt this resolution.

**BACKGROUND:** As a result of the sale of the City's Water Utility, the City will receive one-time revenue of approximately \$14 million dollars, after deducting from the sale proceeds funds necessary to cover water system debt, pension obligations, and closing costs. We have requested our Financial Advisor to provide us some preliminary scenarios on the investment of the sale proceeds based on the information that is currently available.

City officials have been clear throughout the discussions on the sale of the water system that the use of the proceeds from such sale would be set aside to produce the optimal long term financial benefit for the City, its citizens, and taxpayers.

Options that have been discussed at Work Session include:

**Scenario 1 – Pension Plan:** Utilize the approximately \$14 million of sale proceeds as a contribution towards the City pension plan, utilizing the equivalent saving in pension contributions to finance future debt service. This would increase the funded status of the plan, which would be a benefit to the taxpayers and to City and School employees who are beneficiaries of the plan. Currently, the City government pays an annual required contribution ("ARC") of \$1.4 million to the pension plan. We are working with the City's actuary to model what the ARC reduction would be with one-time contributions of various amounts. For initial purposes, we have modeled that the ARC could be reduced by approximately \$980,000.

**Commentary:** The pension fund allows the City to invest in a broader selection of investment funds and generate a higher yield than that available for typical municipal investments (which are constrained by law to certain low risk instruments such as government and corporate bonds). Once funds are put into the pension fund they cannot be taken out. With the higher yields comes higher volatility, which can be smoothed through actuarial methods. The City's actuary will be prepared in January to model what the reduction in the ARC would be with a one-time contribution. We have spoken to the City's pension plan legal counsel and actuary on this option, and they are supportive of this approach in concept. Legal counsel for the City's pension plan informs us that if done correctly there is no legal prohibition to making a



one-time contribution to the pension fund in order to realize the benefit of a reduction to the ARC.

**Scenario 2- Pay as you Go:** Utilize the approximately \$14 million of sale proceeds for capital improvements, instead of debt. For instance, the FY15 CIP calls for \$27 million in debt over the coming five years. If \$14 million of that debt were paid for with cash from the water sale instead of with debt, the avoided debt service would be \$1,190,000 (\$700,000 principal plus \$490,000 interest, 3.5% interest) in year one.

**Commentary:** Under this scenario, the principal drawback is that the benefit to the City taxpayers extends only as long as the life of the project that is built with these funds. This option has the benefit of providing a visible benefit (in the form of a needed capital project) to the community. Once the debt service is paid off (20 years) there is no longer a direct financial benefit to the taxpayers.

**Scenario 3- Endowment:** Utilize the approximately \$14 million of sale proceeds in an endowment or trust, which generates revenue from the more limited investment vehicles available to the City, such as municipal bonds and AAA rated corporate bonds. The assumption for this scenario is that with an investment in an endowment-type fund, annual yields would range between 2.65% and 4.65% under current market conditions. If the funds were invested in an endowment fund where the principal is not spent, it could generate between \$371,000 and \$651,000 per year depending on type and length of term, which could range from ten to thirty years.

**Commentary:** To achieve the yields noted above, the endowment fund would need to be invested in longer term bonds, and principal could be accessed with financial penalties. The yield is lower than it is for Scenario 1 (Pension). Volatility and risk is lower as well. Relative to Scenario 2, it may have a longer-term benefit, if at the end of 20 years the principal is allowed to remain intact.

At the December 2, 2013 Work Session, Council reached consensus that it wishes to set the funds aside, protect the principal amount over the long term, and invest the principal in a manner that produces an ongoing, long-term financial benefit for the taxpayers. The final decision on the use of the proceeds will be made by Council through the adoption of a budget ordinance in the coming year, which will appropriate the proceeds to a designated fund where it will be managed in accordance with established, long-term goals. The attached Resolution establishes these goals and the sense of Council on how best to achieve them.

**FISCAL IMPACT:** The resolution sets forth the goals for the use of net proceeds from the sale of the water system, to provide the optimal long-term fiscal impact for the City.

**TIMING:** Normal

Ms. Barry said this issue had generated a robust discussion with strong feelings one way or the other. She reiterated her support for the Council taking an action that evening, even if it was only on guidance on the use of the proceeds from the water sale. She said such action would not preclude the new Council from overturning or changing the guidance from this resolution. Ms. Barry noted that the complex action of the water sale was taken on by this Council and successfully managed by the staff and legal team. A decision on the use of the proceeds was imbedded in the negotiations on the sale of the system and to not provide guidance was to abandon the Council's fiduciary and governance responsibility. She said the process was transparent and the public had opportunity to express their opinions in this regard. Ms. Barry asked her colleagues to take this initiative across the finish line and provide the public and the new Council with a firm foundation from which to begin the next phase of important deliberations.

Mr. Duncan said he was in sufficient agreement with the resolution until line 109, where he did not believe point #4 reflected the position of Council at their work session. He did not believe there was agreement to express a preference for one approach over another. He would support the resolution if lines 109 - 114 were removed.

Mr. Kaylin said they had discussed whether this Council had the authority to commit funds. He said it had been looked into by the legal team and determined that they did not have such authority. Mr. Kaylin said he believed that conclusion was incorrect and explained why. He believed that the pension plan could have received funds in the same manner as the defeasance of the bonds. He accepted that he had no choice in the matter, but he did not agree with the interpretation. Mr. Kaylin went on to correct misstatements made at the work session regarding discussions during the election. In February 2012 he made a formal proposal about the use of the proceeds because he understood that was information the public wanted. He added that Council Members did not tout the benefits of the sale and said the public had always had the opportunity to comment on the use of the water system proceeds. Mr. Kaylin discussed the risks of an unstructured discussion about the use of the sale proceeds and the amount of time that could be consumed in the process. He said that saving 3 cents on the tax rate through perpetuity had neither winners nor losers.

Mr. Duncan said the merits of the idea might be 100% solid, but he believed that the Council's work on the water system had been very methodical and the ideas in the resolution just needed a little more time for consideration. He said this was a disagreement over process and the Council would benefit from a broader discussion. He preferred a document that ended at line 109, and that it be put out for public comment until the end of January such that the Council could take it up at its first work session in February.

Mr. Snyder reviewed the resolution as a means of moving it along. He had questions about using the money for the pension plan, but the resolution did not say that would be the exclusive use of the proceeds. He said the \$14 million belonged to the citizens and they should have the opportunity to know more about what the money could be used for, despite the good work done by Mr. Kaylin in presenting a proposal. If the resolution was stating that Mr. Kaylin's proposal was *a* proposal, but not an *exclusive* proposal, then he could vote for the resolution. He agreed with Mr. Duncan that more public discussion was necessary. Mr. Snyder said he would not vote for the resolution if the pension plan proposal was the only one being considered, rather than one proposal put out to the public before the Council reached a conclusion after community discussion.

Mr. Tarter agreed with Mr. Snyder's comments. He said that Mr. Kaylin's proposal was the best one he had heard thus far, but he was keeping an open mind.

Mayor Baroukh said he viewed the resolution as not precluding other options from being discussed. He said that putting this out to the public and letting them know what the Council's thinking was might also spur on further discussion. He said they were still waiting for numbers from the actuaries and he was not ready to vote on the best use of the money before seeing those numbers. He viewed this as a sense of the Council and

where they were headed. The Mayor then offered the following amendments at line 101:

- 1) **It is the Council's fiduciary responsibility to ensure that the sale proceeds are put to use exclusively for the broad public interest and benefit of all taxpayers.**

He said the goal was to treat all constituencies in the City equally as they looked to the uses of these funds.

Mr. Snyder proposed adding the following:

**The City Council recognizes that there will be further community discussion before a final decision is made.**

Mayor Baroukh said that was implicit and asked the Interim City Attorney if, on the technical use of the proceeds, there would need to be an ordinance with public hearings and advertisement; so that was stating the obvious. Mr. Taves said that, per the City Charter, the City Council must have the funds in hand and that would have to be certified by Mr. LaCondre before funds could be appropriated. The Mayor asked if, once the City had funds in hand, that would require an ordinance and public hearing on the matter, such as a budget ordinance, which Mr. Taves confirmed.

Mr. Kaylin said he would accept the language proposed. He stated that he had asked the financial advisors to come up with a better plan for more than 6 weeks and they could not come up with something that produced a better rate of return than his proposal. He commented on managing market volatility and suggested having a timeline for focusing on this issue and allowing for the citizen input they wanted. Mr. Kaylin said he could live with Mayor Baroukh's language and Mr. Snyder's language.

**MOTION:** Mr. Snyder MOVED, seconded by Ms. Barry, to approve (TR13-42) with the following amendments:

After line 100: "**It is the City's fiduciary responsibility to ensure that the sale's proceeds are put to use exclusively for the broad public interest and benefit of all City taxpayers.**" and in the next paragraph:

**" It is recognized that there will be further community discussion before any final decision is made, but that discussion shall occur on an expedited basis."**

Council Comments.

Mr. Tarter asked what was intended by "all City taxpayers" and whether a new school would benefit "all City taxpayers." Discussion among the Council followed.

Mr. Duncan said he had read through the resolution many times in an effort to support it, because he knew how much work had gone into it. His problem was that they had campaigned on \$10 million from the sale of the water system, which had varied over the years. He said just the fact that the number had changed from \$10 million to now \$14 million, required full and extensive public discussion. He could not disagree more with the notion that there was some risk involved with having unstructured discussion with the citizens of Falls Church. He had not found them to be dim people; quite the

opposite. They usually improved and informed when engaged in a dialogue. Mr. Duncan questioned why the Council would vote on anything that would suggest picking out an option without all the necessary information. If they were, he could not support it. Mr. Duncan asked for an executive summary of what Mr. LaCondre had presented to the EDA because it raised questions for him as to cushioning against inflation in a blended fund and whether it would exceed the value from a structure such as a school or a city hall. He believed that should be discussed, especially since once the money was used in that manner the City would no longer have any access to it.

Mayor Baroukh said there was a proper motion on the floor and he asked for a second.

Mr. Tarter said he still had one concern about the word "all" and whether that meant that the Schools would not be considered as benefitting everyone. He preferred that it be stricken and "City taxpayers" be used only. He was concerned that it might exclude something like a library. The Mayor said he was fine with that change. Mr. Snyder also accepted that friendly amendment; Ms. Barry seconded the motion and accepted the friendly amendment as well.

The Clerk and Mr. Snyder reiterated the agreed upon amendments as follows:

- 1) "**It is the Council's fiduciary responsibility to ensure that the sale's proceeds are put to use exclusively for the broad public interest and benefit of all-City taxpayers.**" and in the next paragraph:
- 2) "**It is recognized that there will be further community discussion before any final decision is made.**"

and the other paragraphs would be renumbered accordingly.

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**REITERATED MOTION:** Mr. Snyder MOVED, seconded by Ms. Barry, to approve (TR13-42) with the following amendments after line 101:

- 1) "**It is the Council's fiduciary responsibility to ensure that the sale's proceeds are put to use exclusively for the broad public interest and benefit of all-City taxpayers.**" and in the next paragraph:
- 2) "**It is recognized that there will be further community discussion before any final decision is made.**"

and the other paragraphs would be renumbered accordingly.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: NO  
Mr. Kaylin: YES

Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 5-1, with Mr. Duncan voting NO. (Res. 2014-41) (Mr. Peppe was absent.)

Mr. Duncan asked if there had been a public notice of this resolution. The Clerk explained that resolutions were not usually noticed in the newspaper. The only notice was through the posted agenda. She said that was the normal practice and this was legal.

Mr. Snyder said this had been discussed publicly and had been noticed as part of the previous Council work session, along with this Agenda. He believed this needed to be moved forward expeditiously.

Mayor Baroukh said this was no different than what was being done with the budget guidance. It was setting a direction but that did not mean that this was absolutely where the Council would come out on this issue. The Mayor said there would be several opportunities for public discussion.

**(TR13-43) RESOLUTION TO ADOPT CITY OF FALLS CHURCH STORMWATER UTILITY FEE CREDIT POLICY (Cindy Mester, Acting Director of Public Works; Jason Widstrom, Engineer)**

 [\(TR13-43\) Stormwater Utility Fee Credit Policy](#)

Engineer Jason Widstrom summarized the staff report before Council.

Staff Report

REQUEST: Council is requested to adopt the City of Falls Church Stormwater Utility Fee Credit Policy through resolution TR13-43.

RECOMMENDATION: Staff concurs with the recommendation of the Credit Policy Task Force and recommends approval of TR13-43.

BACKGROUND: On June 10, 2013, the City of Falls Church City Council adopted Stormwater Credit Program (Ordinance 1898) that will,

- 1) provide a 30% discount for impervious areas draining to a registered Best Management Practice;
- 2) provide a 10% discount for an approved Stormwater Pollution Prevention Plan (SWPPP); and
- 3) provide up to a 30% discount for water quantity runoff control resulting in peak mitigation for off-site waters and/or on site runoff in excess of code requirements.

Ordinance 1898 served as the framework for the program; however, additional details were needed to develop specific credits for the stormwater utility fee. To accomplish this task the City Council established, by resolution (TR13-22), the Stormwater Credit Task Force on July 22, 2013. The task force was composed of ten representatives from a broad range of community stakeholder perspectives; specifically members from single-family homes, townhouse, apartments, commercial properties, and faith-based community, and members from City Council, Planning Commission, and Environmental Services Council. The goal of the task force

was to formalize a stormwater credit system that has clear nexus between the intended effect and the benefit to the utility's mission. The group met six times with staff and the City's engineering consultant AMEC to work through potential Best Management Practices and methodologies for calculating and implementing stormwater credits in a system that collects a fee based on impervious coverage. Throughout the process members of the task force have paid careful attention to the administrative burden and cost implications of the types of stormwater practices.

#### Task Force's Credit Policy Recommendation

In summary, the Stormwater Utility Fee Credit Policy is a guiding document for the implementation of the Stormwater Utility Fee Credit Program. It provides details on:

- the percentages of credits for structural stormwater facilities that address water quality (40% and 20%; see discussion below) and quantity (sliding scale between 10% and 30%);
- a point system for activities covered under Stormwater Pollution Prevention Plan (10% credit);
- the term a credit is applicable for (minimum of 15 years);
- eligibility criteria for structural facilities (Virginia Stormwater BMP Clearinghouse standards, maintenance agreement, functionality inspection);
- application process (sample application form included); and,
- credit calculation methodology.

The draft Stormwater Utility Fee Credit Policy is provided herein as Attachment A.

At the final task force meeting on November 19, 2013 general consensus was achieved on most policy questions concerning the structure of the credit program, the selection of stormwater management facilities for use in residential and general Stormwater Pollution Prevention Plans, and the application of credits.

The task force recommended a change in the application of the Stormwater Credit Program that was adopted by City Council in Ordinance 1898. Specifically, the majority of the task force believed that there should be a distinction between stormwater management facilities installed as a condition of development versus those installed voluntarily. A condition of development facility provides a benefit to the system and the owner has the ongoing responsibility to maintain the facility. Similarly, a voluntary facility can be used by the City to meet Chesapeake Bay pollutant reduction targets and therefore results in a cost-avoidance to the City. The City Council's existing resolution treats all facilities the same with a 30% credit. The Code of Virginia requires that anyone who installs, operates, and maintains a facility must be given a credit; however, the amount of credit and distinctions among facility types is at the discretion of the City. While not unanimous, the task force recommended to the City Council that condition of development facilities receive a 20% credit while voluntary facilities receive a 40% credit as a way to provide a further incentive for their installation. In order to adopt this change the City Council will need to modify Ordinance 1898 under a separate action.

#### Task Force's Future Consideration for City Council

The task force had difficulty developing a credit policy that created an incentive for property owners to make voluntary investments above minimum regulatory standards that would help the City reduce known flood hazards and achieve water quality targets such as those identified in the Chesapeake Bay TMDL. The difficulty in creating an incentive system stems from economic concerns about the initial expenses associated with the engineering and construction of stormwater facilities. For example, a typical facility designed to treat rooftop runoff from a single-family home ranges between \$7,000 and \$10,000. Assuming applicants could get 100% discount, the annual savings for a home would be approximately \$250. The breakeven point in constant dollars would be 28 years, which is 13 years past the common useful life of many infiltration facilities. Therefore there is no economic incentive to the resident.

In order to incentivize residents and businesses to install practices the task force recommended lowering the cost of design and installation through cost sharing under a City-sponsored grant program funded by the Stormwater Utility. Using the same example provided above, splitting the initial costs in half creates a breakeven point in constant dollars at 14 years. The examples demonstrate that the magnitude of the economic incentive is a function of the cost of implementation and the cost of the utility fee.

City staff recommends revisiting the concept of a grant program at least one year after the implementation of the Stormwater Utility Fee and the credit program in order to observe the outcomes of the program. At this time the City has budgeted \$100,000 for the credit program; however, there is no certainty how many of the existing facilities will apply for this credit. Other long-term factors to consider will be the needs of the stormwater program and the costs of stormwater facilities once they become more commonplace.

#### Outreach Materials

City staff recognizes the concepts outlined in this report are complicated and difficult to disseminate across a broad audience. Staff is actively working with a graphic artist to develop two infographics and additional informational materials to publicize the stormwater utility fee and credit policy. The goal of these efforts is to break the material into layman's terms so it is readily understandable and thus more likely to be used by stormwater customers.

**FISCAL IMPACT:** The Stormwater Enterprise fund has budgeted \$100,000 for the credit program in FY14. If all known stormwater facilities in Falls Church took advantage of the program on day one the estimated cost would be approximately \$28,000. No additional funds are required.

**TIMING:** Immediate. Defining the specifics of the credit program as early as possible is crucial to the rollout of the stormwater utility fee.

Mayor Baroukh thanked Mr. Widstrom for the graphics provided to help the public understand the policy.

Mr. Duncan asked about the proposed grant program. He noted that small measures, such as rain barrels and the like, did not have much impact so the real incentives were for building significant stormwater prevention infrastructure. However, that was not economically feasible unless the City matched the cost 50%, and that would not be done initially because the City wanted to see how the program worked out during the first year. Mr. Duncan asked if that time could be reduced to encourage larger scale improvements to achieve the goals of the program.

Mr. Widstrom discussed the fiscal impact set forth in the report and noted that 10% could initially be taken off the bill. He believed it was fiscally prudent to wait a year or two to see how the program worked.

Mr. Duncan and Mr. Widstrom continued to discuss details of the program regarding staff time. Mr. Widstrom said they were prepared for the necessary staffing and some programs were on the honor system, such as the Neighborhood Tree Program. He felt confident that the staff could handle the work.

**MOTION:** Ms. Barry MOVED, seconded by Mr. Snyder, to continue past 10:30 p.m. On voice vote, without objection, the motion passed.

Mr. Tarter asked about using GIS to determine things such as play areas on properties. Mr. Widstrom said the fee was based on a satellite image so a physical inspection would not be necessary.

**MOTION:** Ms. Barry MOVED, seconded by Mr. Tarter, passage of (TR13-43).

The Mayor opened the item to the public for comment.

Mike Volpe (314 W. Columbia Street) said he had worked on the task force as a representative of the faith-based community. He commented on how well the process had gone. Mr. Volpe cautioned that the introduction of the stormwater management fee would generate many questions and perhaps opposition from City landowners. He said the credit policy would help deflect some of the criticism and questions about the fee. Mr. Volpe said the work of the task force, staff and consultants was to encourage land owners in the City to utilize stormwater management techniques to help the City meet its obligations under state and federal law. He noted that the techniques varied for different types of landowners. He also hoped that this would not be the beginning of a number of fee-based programs in the City. Mr. Volpe commented on the changes in how the City treated churches with regard to services such as trash removal. He said his church would be paying a fee of about \$7,000 per year, which would preclude them from initiating other methods of stormwater abatement such as instillation of rain gardens.

There being no more public comment and nothing further in writing, the item was closed to public hearing and opened to the Council for discussion.

Council Comments.

Mr. Kaylin noted how collegial the task force had been in its work.

Mr. Snyder said that, moving forward with this program, he hoped that the Council could be flexible in making changes such as coming up with more of an incentive grant program in the future. He said the City needed to move forward with this program and he agreed that the credit program would be critical to its success. Therefore, he would support the resolution, with the understanding that as the program moved forward the Council would be responsive to legitimate public concerns.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Res. 2013-42) (Mr. Peppe was absent.)



**(TR13-45) RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE A LEASE WITH THE NORTHERN VIRGINIA REGIONAL PARK AUTHORITY FOR THE TINNER HILL HISTORIC SITE (Cindy Mester, Assistant City Manager)**

 [\(TR13-45\), \(TR13-46\) and \(TR13-47\) Tinner Hill Leas et al](#)

Assistant City Manager Cindy Mester summarized the staff reports before Council. She said that the Tinner Hill parkland was owned by Fairfax County and the City of Falls Church and would be developed in conjunction with the Northern Virginia Regional Park Authority. She said the three legal documents before Council addressed the programming, maintenance, and implementation of the historic site. The Tinner Hill Heritage Foundation and the NVRPA were the two key players. She said the resolutions spoke to the terms, conditions, and roles of the parties. Ms. Mester said the Fairfax County Board of Supervisors was going to take action on these items in January and they expected a groundbreaking in the summer of 2014. She noted the Planning Commission's finding that this project was consistent in character, intent, and location with the Comprehensive Plan and they recommend that City Council proceed and approve the lease, easements and MOU.

**Staff Report**

**REQUEST:** Council is requested review and authorize execution of the required legal documents with the Tinner Hill Heritage Foundation, Fairfax County, the Northern Virginia Regional Park Authority and the City, required for the development and programming of the Tinner Hill Historic Site.

**RECOMMENDATION:** Staff recommends that the City Council adopt three enclosed resolutions for: 1) the 99-year lease between the City, County and Northern Virginia Regional Park Authority; 2) the conservation easements between City and County to ensure perpetual preservation of this historic site; and 3) the memorandum of understanding between City, County, Northern Virginia Regional Park Authority and Tinner Hill Heritage Foundation designating roles and responsibilities for ongoing operations and programming for this cultural amenity.

**BACKGROUND:** In 1999, the City and County acquired title to two unimproved vacant lots on Tinner Hill Road, which total approximately one-half acre for the preservation of this historical resource. Subsequently, on December 23, 2002, the City and County entered into a 40-year ground lease with an option for the property to be purchased by the THHF.

The 2002 lease restricted the land use as a tourism destination and educational resource that celebrates the formation of the first rural branch of the National Association for the Advancement of Colored People and the courageous leadership of Joseph Tinner, E.B. Henderson and other African American residents of the Falls Church community in the fight against segregation. The lease also provided specific milestones by which construction of improvements (i.e. Joseph Tinner home replica and performance center) were to be completed. The original lease has expired when the milestones were not met due to economic down turn and need to refine the design.

In 2007, the THHF completed a feasibility study to re-evaluate how and what should be built on the park land as well as developing the amenities so that ongoing operations were sustainable.

As reported to Council at the August 6, 2012 work session, the THHF undertook a series of community input sessions and research in order to refine the vision and design. Virginia Tech School of Urban Planning participated was recently recognized by the Virginia Planning Association for their work with the THHF. The full materials related to the August 2012 briefing are available

at: <http://www.fallschurchva.gov/content/government/council/meetingwebcastgranicus.aspx?cnlid=3084> During the October 4, 2013 Council work session, staff provided a positive update on the project process by the County, City, Tinner Hill Heritage Foundation (THHF) and the Northern Virginia Regional Park Authority (NVRPA). Council directed staff to proceed with finalizing necessary legal documentation for full implementation of this historic and cultural amenity.

The City Attorney has determined that the Council must act to approve the lease, easement and memorandum of understanding but can do this by resolution. Additional legal research, since the October 2013 work session, resulted in confirmation that the state code section 15.2-2100 requiring approval by ordinance is not applicable in this specific instance of this City owned land, based on several Attorney General opinions, because it has not been in public use since the 2002 ground lease was executed or since the expiration of said lease as noted above.

Prior to approval of formal use of this property for the Tinner Hill Historic Site the City must make a finding that the proposed project is in concurrence with the Comprehensive Plan in terms of extent, location and character. This satisfies the requirements in state code section § 15.2-2232 requiring projects to be in conformance with the Comprehensive Plan. On October 21, 2013 the Planning Commission unanimously found the Tinner Hill Historic Site to be in compliance with the Comprehensive Plan and recommended that City Council proceed with all approvals and implementation.

The NVRPA has formally named the site with the THHF concurrence as well as recently approved \$175,000 capital funding for the first phase of the site development.

The 2013 General Assembly appropriated \$20,000 grants funds to the City for this project as well.

The following is the current implementation schedule:

1. March 2013 – NVRPA Board approved future name as “Tinner Hill Historic Site”
2. September 2013 – Inclusion in NVRPA Capital Budget for initial phase development
3. December 2013 – City authorizes conservation easement on property, lease and memorandum of understanding
4. January 2014 – County completes 2232 Comprehensive Plan permit and required easement/lease approvals
5. Winter 2013/2014 – Phase 1 development, design and implementation
6. Summer 2014 – Grand Opening Celebration

The following provides a summary of the parties, roles, and terms, as well as the development phases:

**Parties, Roles and Terms-**

1. County/City/NVRPA Lease- the City/County will lease, for 99-year use of the land the two owned parcels (about ½ acre combined) to the NVRPA for the exclusive right to use the Premises for the development, construction, operation, maintenance, and use of recreational facilities in conformance with the conservation easements subject to the property. NVRPA, at its own expense shall keep and maintain, or cause to be kept and maintained, the property including, but not limited to, landscaping, lighting, sidewalks, parking lots, snow removal and drainage, and all Improvements which are or may be erected in a safe condition and a good state of appearance and repair, reasonable wear and tear. Additionally, a memorandum of understanding with THHF must remain in effect. The lease has been prepared by the City and County Attorneys and in addition to the above cited terms contains all general terms and conditions necessary in a lease to address liability and all code requirements.

2. Conservation Easements- The City and County desire to give and convey to a perpetual historic preservation and open-space easement over the Property for the preservation of an historically important land area pursuant to Section 170(h)(4) of the Internal Revenue Code (IRC) and section 1.170A-14(d)(4) of the associated Treasury Department Regulations require that donation of a conservation easement be exclusively for specific conservation purposes as noted above. The preservation of this land will yield a significant public benefit to both the County and City consistent with comprehensive and area plans. The easements have been prepared by the City and County Attorneys and will be compliant with all federal and state requirements. The County hold the easement protecting the City property and the City will hold the easement protecting the County property which achieves the preservation goals but also retains easement authority in local government oversight versus utilizing a third party entity.
3. Memorandum of Understanding (MOU)- the MOU is a four party agreement, between the City, County, THHF and NVRPA, to outline how and in what manner the NVRPA will manage and maintain the Tinner Hill Historic Site so that the property serves as a vibrant public site that will reflect the history, culture, and civil rights activism that occurred on the Property from the Civil War to contemporary times. This document was prepared by the THHF and NVRPA with City and County staff concurrence and legal review the by the City and County Attorneys.

The key terms are: 1) the NVRPA will manage the site, direct any physical development of the site, and promote the site as one of the historic facilities of the Authority; 2) NVRPA will include the Property on its web site, and will implement the initial development phase of the Property; and 3) THHF will have a major role in determining the direction and content of the interpretive materials and programs that will be available to the public. These educational materials and programs may take the form of written documents, living history interpreters and tour guides, as well as other elements and new technologies. THHF will work with the NVRPA and other groups and individuals, as appropriate, on conceiving and developing exhibitions. THHF will be recognized on any signage at the site for its role in preserving and interpreting the history of the site.

**Initial Development Phase** – This phase will include the installation of a pavilion with stone faced support for the performing arts and picnicking; a path that follows the City/County line and can be used as a point of interpretation; benches and signs; landscaping; and possibly some handicapped parking spaces. This initial development will establish the site as a public place. The NVRPA will take responsibility for the initial phase of development (estimated at \$150,000-175,000) and will work with the THHF Board in planning, designing and developing the initial phase for the historic site. Final plans and designs for this phase will be presented to the THHF Board for their review and approval of a plan that meets this description and budget.

**Additional Development Phases** – Such phases can be initiated and developed by any party listed above or any combination of parties listed above if A) the party secures all necessary funds for the additional work; B) the plan is consistent with the intent of the site; C) the THHF, City, County and the NVRPA all agree in writing that additional plans, beyond the initial development phase, are desirable for the site.

**Development of Interpretive Plan** - Over a transition phase of two years from the date of this agreement, the THHF and the NVRPA will work to define how the site can best be interpreted to the public and how the two parties will work together. During this transition phase, the two parties will, among other things: A) define the core content for the site's signage and interpretive programs; B) identify events and other initiatives that will take place at the site on a regular basis; and C) develop a defined relationship that embodies the THHF spirit and perspective in operating the historic site. This defined working relationship will be recorded in writing and will be added to this MOU as an addendum, provided that any such addendum is reviewed and approved by the City and the County.

FISCAL IMPACT: No direct fiscal impact.

TIMING: Immediate. After City Council action the County is scheduled to finalize their required actions in January 2014 and historic site grand opening is planned for summer 2014.

ATTACHMENT: Planning Commission 2232 Comprehensive Plan October 4, 2013 staff report

**MOTION:** Mr. Snyder MOVED, seconded by Ms. Barry, to approve (TR13-45).

The Mayor opened the matter to the public for discussion.

Edwin Henderson (President and Founder of the Tinner Hill Heritage Foundation, 307 S. Maple Avenue) said this had been a long time in the making. He referenced an initial meeting between Mayor Dave Snyder and Supervisor Gerry Connelly 15 years earlier to discuss the possibility of having something to commemorate the historic site. Mr. Henderson said staff had worked very hard on this project for the past 5 years to make the project a reality. He thanked the Council for putting in the time and effort to bring the project to fruition. Mr. Henderson noted that the project was not only for the City, but also for the entire community, and the people that would visit Falls Church for years to come.

There being no further public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

*Council Comments.*

Mayor Baroukh thanked Mr. Henderson, City staff, and Fairfax County for working in partnership with the City on this project. He offered special thanks to Vice Mayor Snyder for pushing the project along.

Mr. Tarter clarified that the property was being turned over to the NVRPA for the next 99 years. He said the Park Authority had committed \$150,000 - \$175,000 for the Phase I design and he wanted to know what assurances the City had that the project would be completed. Ms. Mester said in the MOU the Foundation and NVRPA would continue to design Phase II, get cost estimates, and then raise the funds necessary to move to the next phase. To totally achieve the vision of the Tinner Hill Heritage Foundation, more fundraising would be necessary. She said this project was modeled after the Korean Bell at the NVRPA's Meadowlark Gardens. Construction would not begin until the fundraising efforts provided the necessary funds in hand. Ms. Mester said Phase II would cost close to \$800,000 for a total cost of \$1 million for the project. Mr. Tarter and Ms. Mester discussed the vehicles for funding the next phase of the project.

Mr. Snyder said the same thing that Nelson Mandela fought for in South Africa and Martin Luther King worked for in the U.S. was fought and struggled for by the African Americans whose memory we honor and wish to carry forward with this project, for all citizens, so that their example, heroism, and commitment to non-violent progress on behalf of all humanity would never be forgotten. He said it was a huge honor to take action that evening. Mr. Snyder expressed his thanks to Ed and Nikki Henderson whose work made the project possible; to Assistant City Manager Cindy Mester for her work, the Tinner Hill Heritage Foundation, various other public officials, Fairfax County, and

the Northern Virginia Regional Park Authority. He said this had been a long time in coming and there was a symbolism associated with the project that words could not express. He said this was one reason for doing public service and it was a credit to the Council, and everyone involved, that they would see a great idea converted into a reality.

Mayor Baroukh reminded staff that on the three items being taken up his name should not appear on any documents that might be going to the federal government or federal courts.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Res. 2013-43) (Mr. Peppe was absent.)

**(TR13-46) RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE TWO CONSERVATION EASEMENTS ON THE TINNER HILL HISTORIC SITE (Cindy Mester, Assistant City Manager)**

**MOTION:** Mr. Snyder MOVED, seconded by Ms. Barry, to approve (TR13-46).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Res. 2013-44) (Mr. Peppe was absent.)

**(TR13-47) RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FALLS CHURCH, FAIRFAX COUNTY, THE NORTHERN**

**VIRGINIA REGIONAL PARK AUTHORITY, AND THE TINNER HILL HERITAGE FOUNDATION (Cindy Mester, Assistant City Manager)**

**MOTION:** Ms. Barry MOVED, seconded by Ms. Barry, to approve (TR13-47).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Res. 2013-45) (Mr. Peppe was absent.)

Before the next item was read into the record, Mayor Baroukh passed the gavel to Ms. Barry and said he would recuse himself, as a prudential matter, because of his day job in case there was a conflict in the future.

Vice Mayor Snyder also recused himself for reasons set forth in a prior meeting.

Ms. Barry took over as chair of the meeting.

**(TR13-39) RESOLUTION DECLARING THE POSITION OF THE FALLS CHURCH CITY COUNCIL THAT CORPORATIONS SHOULD NOT RECEIVE THE SAME LEGAL RIGHTS AS NATURAL PERSONS, THAT MONEY IS NOT SPEECH, AND THAT POLITICAL EXPENDITURES CAN BE REGULATED (Cindy Mester, Assistant City Manager)**

 [\(TR13-39\) Res. re Campaign Contributions](#)

Assistant City Manager Cindy Mester summarized the staff report before Council. Ms. Mester said this had been deferred from the previous Council meeting and was brought forward from the Northern Virginia Move to Amend initiative of the citizens the Council heard speak earlier.

**Staff Report**

REQUEST: Council is requested to approve a resolution that calls upon the Virginia General Assembly and the United States Congress to support an amendment to the U.S. Constitution to reverse Citizens United v. Federal Election Commission. This item was separated from the Legislative Package, adopted on November 25, 2013, for a stand alone vote.

RECOMMENDATION: Staff recommends adoption of the resolution.

BACKGROUND: Members of *Northern Virginia Move To Amend*, who reside in the City of Falls Church, have requested that the City Council adopt this resolution supporting a United States constitutional amendment that would reverse the decision of the U.S. Supreme Court, Citizens United v. Federal Election Commission, and other related decisions of the federal courts, which have allowed unlimited corporate spending in federal and state elections. The citizens requesting this action by the City Council view the corrupting influence of corporations and money in elections as a threat to good government, civic and civil discourse, and the people's participation in local decision-making.

FISCAL IMPACT: None.

TIMING: Normal

Ms. Barry asked for a motion.

**MOTION:** Mr. Kaylin MOVED, seconded by Ms. Barry, to adopt (TR13-39).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

Council Comments.

Mr. Duncan thanked the citizens who had pursued this issue for several months. He believed they had done a great service in educating the community and Council. He referred to early legislation on limiting campaign spending following the Watergate scandal and thought that the pendulum had now swung the wrong way in the opposite direction. He commended the efforts of anyone to help move the pendulum back to a more rational point.

Mr. Tarter said he supported the underlying sentiment behind the motion and agreed that excess campaign contributions had distorted the political process. However, as a lawyer that created and represented corporations, he believed that subsection (a) of the resolution was overly-broad, with unintended consequences.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES

Mr. Duncan: YES

Mr. Kaylin: YES

The City Clerk announced that three Council Members voted YES, Mayor Tarter ABSTAINED, and Mayor Baroukh and Vice Mayor Snyder RECUSED themselves. Discussion followed on the outcome of the vote of 3 in support, 1 abstaining, and 2 recusals. Interim City Attorney Pat Taves said there was a quorum of 4 and a majority vote of that quorum was needed to carry the motion, which it did; therefore the motion PASSED. (Res. 2013-46) (Mr. Peppe was absent.)

Ms. Barry passed the gavel back to Mayor Baroukh to resume as chair of the meeting.

Mayor Baroukh said it would probably ~~not~~ be acceptable for him to vote on the next item, but given that it would go to a federal agency he believed it best to recuse himself from the next matter as well, as a prudential matter. He then passed the gavel to Vice Mayor Snyder to chair the meeting.

**(TR13-48) RESOLUTION REQUESTING THE ENVIRONMENTAL PROTECTION AGENCY (EPA) TO ACT TO REDUCE CARBON POLLUTION WHILE BUILDING RESILIENT COMMUNITIES (Council Member Barry)**

 [\(TR13-48\) Res. requesting EPA to reduce Carbon Pollution](#)

City Manager Wyatt Shields said Ms. Barry had asked that this item be brought forward. Mr. Shields said a citizens' group in the City had drafted the resolution, which was modified by staff to fit the Falls Church format.

Vice Mayor Snyder called for a motion.

**MOTION:** Ms. Barry MOVED, seconded by Mr. Kaylin, to approve (TR13-48).

The Vice Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**Council Comments.**

Ms. Barry read what she had provided her to her colleagues in support of the resolution. *"Falls Church has taken a leadership role in regional jurisdictions on energy efficiency, stormwater management and compliance, recycling, and climate change. I ask that my City Council colleagues vote positively on this resolution and thusly maintain the City's important commitment to sustainability. I very much appreciate your positive vote on this."*

Mr. Snyder commented that extreme weather was a major issue with significant local impacts, everything from flooding to the need to harden our facilities. He said the Council of Governments had an interesting session with all of the water managers in the region and they concluded that they were building climate change into their operational plans. Because of the serious impact on our citizens and local government budget, and ability to perform basic public services, he believed that this was something that Council could and should vote on.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES

Mr. Duncan: YES



Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: RECUSED

The City Clerk announced that the motion PASSED 5-0, with Mayor Baroukh RECUSING himself. (Res. 2013-47) (Mr. Peppe was absent.)

Mayor Baroukh resumed as chair of the meeting. The Mayor reiterated that nothing should go to the federal government or federal courts with his name on it.

**Consent items** – None.

**Other business** – None.

### **BUSINESS NOT ON THE AGENDA**

(1) CONSENT TO DUAL REPRESENTATION OF THE CITY OF FALLS CHURCH AND THE VIRGINIA RESOURCES AUTHORITY.

Mayor Baroukh said this was added at the request of the City's bond counsel for consent to dual representation of the City of Falls Church and the Virginia Resources Authority.

**MOTION:** Mr. Snyder MOVED, seconded by Ms. Barry, that the City Council consent to dual representation of both the City of Falls Church and the Virginia Resources Authority with respect to certain of the City bonds that are the subject of the defeasance resolution considered by Council tonight.

City Manager Wyatt Shields said McGuire Woods served as bond counsel to the City and they were also the bond counsel for the Virginia Resources Authority, which was why the dual representation was being requested. He said the Virginia Resources Authority was the state bonding agency which allowed local governments to access the state's AAA bond rating to issue debt. He said the City had done that in the past for some sewer debt and water debt, when advantageous to do so.

Mr. Snyder asked the Acting City Attorney Pat Taves if he saw any negative impact on the City as a result of allowing the dual representation. Mr. Taves did not believe so; he understood the affect to be -- if in the unlikely event in the future there was litigation between the City and the Virginia Resources Authority -- that McGuire Woods would be conflicted out because it represented both parties in this matter. Therefore, they would not be involved in the litigation. Because there was a vague potential conflict of interest, they needed permission from both parties -- the VRA and the City -- in order to go forward.

Mayor Baroukh confirmed with the City's bond counsel, who was in Chambers, that McGuire Woods would also be seeking the same authorization from the Virginia Resources Authority using similar language.

Mr. Snyder confirmed that if a disagreement were to occur, then the City would be advised of that and McGuire Woods would remove itself from representation. He said what was important was that the City was clear that it was agreeable to continue having McGuire Woods process things, but in the case of a disagreement then the City would be able to seek other counsel. Mr. Taves said he did not believe there was any negative impact on the City from this action.

Mr. Kaylin said he had read some of the bond covenants and there was no wiggle room; they were so tightly written in favor of the VRA. He could not imagine what the City could do in a law suit.

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion:

Ms. Barry: YES  
Mr. Duncan: YES  
Mr. Kaylin: YES  
Mr. Snyder: YES  
Mr. Tarter: YES  
Mayor Baroukh: YES

The City Clerk announced that the motion PASSED 6-0. (Mr. Peppe was absent.)

Mayor Baroukh asked Mr. Taves to confirm that there were no federal issues related to the defeasance resolution, which he did.

### **COUNCIL MEMBER COMMENTS**

Mr. Snyder thanked the volunteers and City staff for the Civil War event on Thanksgiving weekend. He also expressed his appreciation to City employees for their work to keep the City streets cleared and provide for the safety of the community.

Mr. Duncan reported that the Library Board had voted -- for a second and final time -- on their recommendation regarding the facility in the CIP. He said the Planning Commission would be considering that the following week. Mr. Duncan wanted to make sure the Planning Commission packets were noticed to the Council so they could read the materials and be prepared for that issue in the following year. Mr. Duncan then reported on his attendance at the NVTC meeting the previous Saturday morning (allowing for a quota) so that necessary business could be conducted. He had also attended the Employees Service Awards luncheon at the Italian Cafe. He said it was bitter-sweet for the employees transitioning over to Fairfax Water. The City Manager was given his 10-year service award and Mr. Duncan was privileged to speak on behalf of the Council in that regard.

Mr. Snyder commented on a presentation earlier in the evening from a citizen regarding Grove Avenue and the west end of the City. He assumed those comments would be taken seriously under consideration as they moved forward with the west end project.

Mayor Baroukh referenced his disclosures for the Harris-Teeter project given to the City Clerk to keep on file. The Mayor reported that the City was still under a severe storm warning and he urged citizens to use caution on the roads. He noted that a storm was coming and people should be prepared. Mr. Shields said a band of snow was expected the following day along with very cold temperatures. He said the City would be out treating streets and he expected that City Hall and government offices would be open, while school closings would be announced in the morning. Mayor Baroukh said Dominion Power had sent out a note with their contact number in case of power outages. The Mayor also asked for an after-action report on how Dominion handled the City's issues.

#### Baroukh Disclosure

Post office lot, city center area, EDA property, Atlantic project, and Hitt/ Rushmark project, [201 W. Broad St.](#) 300 block of W. Broad St, and [301 W. Broad St.](#)

While I understand that I am not required to make a disclosure, as a prudential matter, after extensive discussions with the City Attorney, pursuant to VA Code, §§ 2.2-3112 and -3115.H., I would like to disclose as a matter of prudence regarding the:

- 1) Post office lot, city center area, EDA property, Atlantic project, and Hitt/ Rushmark project, [201 W. Broad St.](#), 300 block of W. Broad St, and [301 W. Broad St.](#)
- 2) That (a) I own property at [243 Gundry Dr.](#) and among other things I was a member of the Board of the Winter Hill Community Association and other groups and was a member of the major design team; and the my wife is President of the Association and (b) the Association previously provided comments on the Atlantic project and I also provided comments; The Association also recently provide comments regarding the Hitt/Rushmark project;
- 3) I am a member of groups (including but not limited to homeowners) which may be affected by the project;
- 4) Based on my review and discussion with the City attorney and given that the project will affect the City as a whole with regard to, among other things, fiscal matters, planning, development, and housing policies, I believe that I can participate in the transactions fairly, objectively, and in the public interest.

Mr. Snyder asked about using the community center as an emergency shelter. The City Manager said the City had just renewed the MOU with Red Cross for a shelter, but that would only be if there was a real need.

Mr. Duncan announced the League of Women Voters holiday party had been postponed and would be held the following Sunday.

**APPROVAL OF MINUTES OF PREVIOUS MEETINGS** – None.

#### **ADJOURNMENT**

**MOTION:** Mr. Kaylin MOVED, seconded by Ms. Barry, to Adjourn. Without objection, on voice vote the motion passed and the meeting adjourned at 11:20 p.m.

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Mayor Baroukh

ATTEST:

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City Clerk

Approved: 3-10-14

Attached: Ord. 1912, Ord. 1913, Res. 2013-39, Res. 2013-40, Res. 2013-41, Res. 2013-42, Res. 2013-43, Res. 2013-44, Res. 2013-45, Res. 2013-46, and Res. 2013-47

These are summary minutes. The City Council Meeting may be viewed on the city website.

The city of Falls Church is committed to the letter and spirit of the American Disabilities Act. This document will be made available in alternate format upon request.  
Call 703 248-5014(TTY 711)

ORDINANCE 1912

ORDINANCE TO AMEND CHAPTER 48, "ZONING," ARTICLE V,  
"SUPPLEMENTARY REGULATIONS," DIVISION 1, "GENERALLY," TO  
ADD SECTION 48-869, "MOBILE FOOD SERVICE."

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS THAT the City Code of the City of Falls Church, Virginia, Chapter 48, "Zoning," Article V, "Supplementary Regulations," Division 1, "Generally," be amended with the addition of Section 48-869, "Mobile food service," as follows:

CHAPTER 48 ZONING  
ARTICLE V SUPPLEMENTARY REGULATIONS  
DIVISION 1 GENERALLY

**Sec. 48-869. Mobile food service.**

The intent of this section shall be to allow certain for-profit sales stands and mobile vendors subject to conditions herein and to establish exemptions for certain civic and non-profit uses.

(a) Mobile food service. For purposes of this section, a mobile food service vendor shall be a for-profit retail use that is operated from a vehicle, cart, push cart or similar conveyance from which food and incidental items are sold for immediate consumption, whether prepared on site or not, and that is not otherwise defined herein as a temporary stand. Examples include mobile vending of meals, desserts and similar perishable food items. Applications for mobile food service vending shall be evaluated in the same manner as a commercial occupancy permit as provided for elsewhere in this chapter, and shall not operate until an occupancy permit and applicable building and health department approvals have been issued. The following conditions shall also apply to mobile food service vendors:

- (1) Except as provided herein, mobile food vending is restricted to the B-1, B-2, B-3, O-D and M-1 districts, and shall not park, stand or otherwise occupy a public right of way.
  - a. Conditional use of an R district for mobile vending: Mobile food service vendor vehicles may operate on a public street in an R district provided they stop only to conduct transactions, are stopped for no more than 5 minutes in any single neighborhood, do not block vehicle or pedestrian traffic and do not create a nuisance due to noise or litter.
- (2) No permit shall be issued without the written consent of the property owner on whose property the mobile food service is to be operated. Such consent shall be attached to the original application.
- (3) The operation of a mobile food service shall not cause the host property to be in violation of any City Code provision, including, but not limited to, parking, pedestrian and traffic movement, litter and noise.
- (4) An application for a mobile food service vendor may be referred by the zoning administrator to the planning director, building official, chief of police, fire marshal or other city official who may require the imposition of reasonable conditions on the application in order to ensure compliance with the City Code.
- (5) Each occupancy permit issued to a mobile food service vendor shall entitle the holder to operate one vehicle within the City of Falls Church as provided herein. The

permit shall be valid for one year from the date of issuance, and shall not be transferable to another individual or vehicle. Each vehicle shall require a separate occupancy permit. The limitations of section 48-868 (c) (3) shall not apply to mobile food service.

(6) No mobile service vending vehicle shall operate on any one property for more than three hours per day.

(7) The City Manager may exempt certain uses such as civic sponsored events, farmers markets, festivals and similar functions from the permitting and location restrictions of this section, and may impose such reasonable conditions as are necessary to satisfy the intent of this Chapter.

**Secs. 48-870—48-897. Reserved**

1st Reading: 10-28-13

2nd Reading: 12-09-13

Adoption: 12-09-13

(TO13-27)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Ordinance 1912.



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Kathleen Clarcken Buschow  
City Clerk

ORDINANCE 1913

ORDINANCE TO AMEND CHAPTER 15, "FEES," ARTICLE I, "IN GENERAL," TO ADD SECTION 15-2, "MOBILE FOOD SERVICE FEES."

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS THAT the City Code of the City of Falls Church, Virginia, Chapter 15, "Fees," Article I, "In General," be amended with the addition of Section 15-2, "Mobile Food Service Fees," as follows:

CHAPTER 15 FEES  
ARTICLE I IN GENERAL

**Sec. 15-2. Mobile food service fees.**

The annual fee for a Mobile Food Service permit will be \$250.

**Secs. 15-3—15-19. Reserved**

1st Reading: 10-28-13  
2nd Reading: 12-09-13  
Adoption: 12-09-13  
(TO13-28)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December, 2013 as Ordinance 1913.



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Kathleen Clarcken Buschow  
City Clerk

RESOLUTION 2013-39

RESOLUTION PROVIDING GUIDANCE TO THE CITY MANAGER  
ON THE DEVELOPMENT OF THE FY2015 CITY BUDGET

WHEREAS, the City Council believes it is valuable to provide early guidance to the City Manager on budget development, as he begins working with staff on the putting together recommendations to the City Council in March; and

WHEREAS, the City Council has received initial projections for revenues and expenditures for the coming fiscal year, as well as for the years FY2016 through FY2020, and has considered these projections in providing budget guidance; and

WHEREAS, the guidance to the City Manager is intended to provide a framework for budget development, and assist the Manager in putting together recommendations next spring that are aligned with Council expectations based on the preliminary projections; and

WHEREAS, the City takes tremendous pride in the quality of public input and citizen involvement in the budget process, and the budget process is designed to provide as many opportunities as possible for citizens to exchange information about budget priorities, and this public input will ultimately inform the Council's final budget decisions next spring; and

WHEREAS, Council expects to have several opportunities to review additional information about budget projections, refine the choices between now and March 10, 2014 when the Manager will present budget recommendations, and may take the opportunity to provide additional guidance as necessary.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Falls Church that the attached FY2015 Budget Guidance Statement is hereby adopted.

Reading: 12-9-13  
Adopted: 12-9-13  
(TR13-41)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December, 2013 as Resolution 2013-39.



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Kathleen Clarcken Buschow  
City Clerk



## **City Council FY2015 Budget Guidance Statement For the City Manager December 09, 2013**

The City Council directs the City Manager to prepare a FY 2015 budget that maintains and supports the City's excellent schools and excellent government services, and adheres to adopted policies on fund balance and debt levels that keep the City on sound and sustainable financial footing. Even in continued tight financial times, the City of Falls Church is committed to providing valuable core services that promote public safety and a high quality of life. To these ends, the City Manager should:

- Review all City government programs and operations to achieve the most cost effective delivery of community services possible, and present alternatives that reduce costs through consolidation of services and programs with other agencies and the school division, mergers, contracting, partnerships, and other means.
- Present a budget in which any increases in revenues for general government expenses are generated solely by economic growth. To the extent that this constraint on expenditures results in negative impacts to programs, equipment replacement, or infrastructure maintenance, information about those impacts should be provided to the City Council with the budget presentation.
  - Using a whole City approach to reducing costs, present options for maintaining a level real estate tax rate.
  - The CIP should be a main focus. Every effort should be made to hold the non-referendum CIP harmless, and required reductions in spending should not come through deferring required maintenance or deferring investment in infrastructure projects in the CIP that would increase City costs in the long run.
- If expenditures significantly exceed revenues and there is a need to reduce or eliminate programs, that in light of the need to undertake these reductions it would be Council's responsibility to select the areas for reduction. In as much as program reductions could represent a change or alteration of the Vision of the City, it is the Council's responsibility.
- Present a budget in which "pay as you go" capital projects, capital reserves, and other identified long term financial obligations are adequately funded.
- Present a budget for operating expenditures that fully considers the spending constraints included in the multi-year financial model reviewed by Council as part of FY14 Budget adoption.

- Present an operating and capital budget that *focuses on infrastructure* maintenance and improvements.
- Present a capital improvements plan for meeting the City's critical needs, including general government and school facilities, parks, buildings, transportation, and storm water infrastructure. The CIP should include:
  - local funding for transportation projects matched under the NVTA 30% formula;
  - accurate and realistic cost figures as possible for the City Hall, Library, and School facility improvements.
- Present an operating budget and five year capital financial plan that: a) maintains an unassigned fund balance at the policy target as set by City Council resolution; and b) maintains annual debt service expenditures below policy limits set by Council resolution.
- Multi-year projections: present revenue and expenditure projections for FY16 and more general projections for FY17 through FY19, so that FY15 budget decisions can be assessed in the context of long term sustainability. The multi-year forecasts should include operating costs, City and VRS pension costs, and capital expenditure projections.
- Present a budget that provides a level of employee compensation that is competitive within the regional labor market and sustainable over the long term.
- Present options in the budget for enhanced real estate tax deferral for seniors.
- Present a budget that fully funds City Basic and Police pension plan actuarially required contributions (ARC) as called for in the actuarial report of 2013.
- Present a budget that absorbs the loss of the administrative cost allocation and PILOT from the water fund without an increase in the tax rate.

RESOLUTION 2013-40

**RESOLUTION AUTHORIZING THE DEFEASANCE AND REDEMPTION  
OF ALL OR A PORTION OF CERTAIN OUTSTANDING GENERAL  
OBLIGATION BONDS OF THE CITY OF FALLS CHURCH, VIRGINIA  
AND SETTING FORTH THE DETAILS THEREOF AND THE  
PROVISIONS THEREFOR**

A. On November 5, 2013, the voters of the City of Falls Church, Virginia (the “City”) approved the sale of the City’s Water System (the “Water System”) to Fairfax Water.

B. All or a portion of the following general obligation bonds of the City were issued to finance or refinance portions of the Water System:

- (i) General Obligation Public Improvement and Refunding Bonds, Series 2011 (the “Series 2011 Bonds”) issued on December 22, 2011 in the original aggregate principal amount of \$8,570,000;
- (ii) General Obligation Bond, Series 2011 (the “2011 Local Bond”) issued on May 2, 2011 in the original principal amount of \$5,500,000 and purchased by Virginia Resources Authority (“VRA”);
- (iii) General Obligation Bond, Series 2009B (the “2009B Local Bond”) issued on November 19, 2009 in the original principal amount of \$5,385,000 and purchased by VRA; and
- (iv) Taxable General Obligation Bond, Series 2007 (the “2007 Local Bond” and, together with the Series 2011 Bonds, the 2011 Local Bond and the 2009B Local Bond, the “Targeted Bonds”) issued on November 13, 2007 in the original principal amount of \$8,220,000 and purchased by VRA.

C. The City Council of the City has determined that it is in the City’s best interests to defease and redeem all or a portion of the outstanding Targeted Bonds.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FALLS CHURCH, VIRGINIA:**

**Authorization of Defeasance and Redemption.** The defeasance and redemption of all or a portion of the Targeted Bonds, is authorized and approved. The Targeted Bonds may be defeased all at one time or in portions from time to time. The Targeted Bonds shall be defeased to and are authorized to be called for redemption on any available call date or paid on the applicable payment date in accordance with the terms of respective Targeted Bonds and the applicable agreements in accordance with which such Targeted Bonds were issued. The City Manager and the Director of Finance of the City, either of whom may act, are authorized to select the particular Targeted Bonds to be defeased and redeemed and the redemption dates for the selected Targeted Bonds as either of them may deem to be in the best interests of the City.

**Application and Transfer of Funds.** The City Manager of the City is authorized to apply, at one time or from time to time, amounts from the proceeds of the sale of the Water System and other available funds of the City sufficient in the aggregate to defease the Targeted Bonds to the redemption of Targeted Bonds or to transfer any of such amounts to one or more escrow agents selected to defease and redeem Targeted Bonds in accordance with the terms of this Resolution. The City Manager and the Director of Finance, either of whom may act, are hereby authorized to engage, at the expense of the City, such escrow agents and verification agents as may be necessary or desirable, in the opinion of the City Manager or the Director of Finance of the City, to effect the defeasance and redemption of Targeted Bonds in accordance with the terms of this Resolution.

**Approval of Escrow Agreement.** Each time the City Manager or the Director of Finance of the City may deem it necessary or desirable to effect the defeasance and redemption of any selected Targeted Bonds, the City Manager and the Director of Finance, either of whom may act, are authorized to execute and deliver on behalf of the City an Escrow Agreement (the “Escrow Agreement”), between the City and such escrow agent to be selected by the City Manager or the Director of Finance, and such Escrow Agreement may be approved by the City Manager or the Director of Finance, whose approval will be evidenced conclusively by the execution and delivery of the document. The City Manager and the Director of Finance of the City, or such officers and agents as either may designate, are authorized to execute and deliver on behalf of the City such other instruments, documents or certificates, and to do and perform such other things and acts, as they deem necessary or appropriate to carry out the transactions authorized by this Resolution, and all of the foregoing, previously done or performed by any such officer of the City are in all respects approved, ratified and confirmed.

**Further Actions.** The City Manager and the Director of Finance of the City, or such officers and agents of the City as either may designate, are authorized and directed to take such further action as they deem necessary regarding the defeasance of the Targeted Bonds and all actions taken by such officers and agents in connection with the defeasance of the Targeted Bonds are hereby ratified and confirmed.

**Effective Date.** This Resolution shall take effect immediately.

Reading: 12-9-13  
Adoption: 12-9-13  
(TR13-44)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-40.



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Kathleen Clarken Buschow  
City Clerk

RESOLUTION 2013-41

RESOLUTION EXPRESSING THE GOALS OF THE CITY COUNCIL FOR THE  
USE OF WATER SALE PROCEEDS

WHEREAS, the City of Falls Church and Fairfax Water have agreed upon the terms for the sale of the City’s water system (“the Agreement”), and the voters of the City voted to

approve the sale of the water system in a public referendum on November 5, 2013;  
and

WHEREAS, the terms for the sale of the water system include, among other things, the payment to the City of \$40 million, and

WHEREAS, the City Council, by separate resolution TR13-44, has established that a portion of those proceeds shall be used to defease the existing debt of the water system, the cost of which is expected to total \$19 million; and

WHEREAS, the City has pension obligations to current and retired employees, and pursuant to the Agreement a portion of the sale proceeds shall be used to fully fund those future pension obligations, as determined by the City's actuary, and

WHEREAS, after deducting from the sale proceeds those amounts necessary for defeasement of debt, covering water employee pension obligations, and other closing costs, there will be net proceeds to the City from the sale totaling approximately \$14 million;  
and

WHEREAS, it is the intention of the City Council that the net proceeds from the sale shall be set aside to produce the optimal long-term financial benefit for the City, its citizens, and taxpayers.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FALLS CHURCH, VIRGINIA, AS FOLLOWS:

- 1) It is the Council's fiduciary responsibility to ensure that the sale proceeds are put to use exclusively for the broad public interest and benefit of city taxpayers.
- 2) It is recognized that there will be further community discussion before any final decision is made.
- 3) It is the intention of the City Council that the net proceeds from the sale of the City's water system shall be set aside to produce the optimal long-term financial benefit for the City, its citizens, and taxpayers.
- 4) The use of the proceeds shall be in keeping with City financial policies.
- 5) It is the intention of the City Council that the principal amount of the net proceeds shall be protected over the long term and used to generate a sustained return on investment for the taxpayers of the City.
- 6) It is the sense of the Council that an advantageous way to accomplish these goals, as described herein, is to place net proceeds of the sale, or a significant portion thereof, into the City Pension Plan, as this will, over the long term, produce a higher return on investment relative to other options, reduce the City's annual actuarially required contribution, and produce a long-term benefit for the City's taxpayers.

Adoption: 12-9-13  
(TR13-42)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-41.



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Kathleen Clarcken Buschow  
City Clerk

RESOLUTION 2013-42

RESOLUTION TO ADOPT THE CITY OF FALLS CHURCH STORMWATER  
UTILITY FEE CREDIT POLICY

WHEREAS, on April 22, 2013, the City of Falls Church City Council adopted a stormwater utility fee and stormwater enterprise fund (Ordinance 1892) to provide a stable and adequate source of funding to meet the City's long-term stormwater management needs as identified in the Watershed Management Plan; and

WHEREAS, on June 10, 2013 the City of Falls Church City Council adopted a Stormwater Credit Program (Ordinance 1898) in recognition that certain private activities can reduce the cost of public stormwater services; and

WHEREAS, Ordinance 1898 provided for City staff to work with stakeholder groups to develop detailed guidelines, methodologies, and calculations for implementing the Stormwater Credit Program; and

WHEREAS, on July 22, 2013 the City of Falls Church City Council adopted Resolution 2013-20, which established a Stormwater Credit Policy Task Force to develop a Stormwater Credit Program that provides a methodology for calculating and implementing stormwater credits.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Falls Church, Virginia that the City adopts the City of Falls Church Stormwater Utility Fee Credit Policy as a guiding document in the implementation of the Stormwater Utility Fee Credit Program.

Reading: 12-09-13  
Adoption: 12-09-13  
(TR13-43)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-42.



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Kathleen Clarken Buschow  
City Clerk

*City of Falls Church Stormwater Credit Policy Task Force*  
**Final Stormwater Utility Fee Credit Policy**

Adopted December 9, 2013

**OVERVIEW**

The Falls Church City Council adopted a stormwater utility fee on April 22, 2013, to provide a stable and adequate source of funding to meet the City's long-term stormwater management needs. This fee-for-service approach recognizes that public stormwater services benefit the community as a whole and distributes this public cost across eligible developed properties based on their amount of impervious area. Impervious area is used as a surrogate for the impact of development on the public drainage and stream systems as higher amounts of impervious area contribute greater amounts of stormwater and pollutants to the stormwater management system. Properties are charged in increments of 200 square feet (SF) of impervious area, known as billing units. The City Council established an initial utility rate at \$18 annually per billing unit (i.e.; 200 SF of impervious surface). The rate is reviewed annually as part of the budget process.

Stormwater utility credits are annual reductions to the stormwater utility fee that acknowledge and promote stormwater stewardship practices. They are a mechanism to recognize that certain actions can reduce the cost of public stormwater services in the long term. Credits are in addition to direct actions that can be taken by a property owner to reduce impervious surface area, thereby reducing the stormwater utility fee. The following credits are available for property owners in the City of Falls Church:

- Credit for a stormwater management facility in the following manner:
  - 20% credit for impervious areas draining to a stormwater management facility installed as a condition of development to meet the requirements of the Virginia Stormwater Management Program (VSMP) permit regulations or its predecessor regulations.
  - 40% credit for impervious areas draining to a stormwater management facility installed voluntarily that meets the technical standards contained in the Virginia Stormwater BMP Clearinghouse or other state-recognized design guidance.
- Up to 30% credit for impervious areas draining to a stormwater management facility that provides detention for off-site stormwater and/or on-site stormwater in excess of City of Falls Church Code requirements.
- 10% credit for an approved Stormwater Pollution Prevention Plan (SWPPP).



Credits may be added together subject to the requirements and maximum credit limitations provided in this document. The following sections present a summary of the legal basis for credits and the City's policies regarding credit amounts, eligibility, and the application process.

## **LEGAL BASIS OF CREDITS**

The Code of Virginia (§ 15.2-2114) *requires* a locality that has adopted a stormwater utility to provide for full or partial waivers of charges to "...any person who installs, operates, and maintains a stormwater management facility that achieves a permanent reduction in stormwater flow or pollutant loadings." The Code further states "The locality shall base the amount of the waiver in part on the percentage reduction in stormwater flow or pollutant loadings, or both, from pre-installation to post-installation of the facility." The Code also *allows* a locality to provide for full or partial waivers of charges to "...public or private entities that implement or participate in strategies, techniques, or programs that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the public stormwater management system." Section 42-246 of the Code of the City of Falls Church provides for an adjustment of the fee through the use of a system of credits adopted by the City Council in accordance with the Code of Virginia.

## **PURPOSE AND GOALS OF CREDITS**

The stormwater utility is a fee for service. As a result, there must be a rational nexus between the credit and the public program of services. The following goals were used in the development of this credit policy:

- Recognize that certain ongoing on-site activities can reduce the long-term cost of public stormwater services.
- Provide an incentive for property owners to make voluntary investments above minimum regulatory standards to help the City reduce known flood hazards and achieve water quality targets such as those identified in the Chesapeake Bay TMDL.
- Encourage residents and businesses to install practices or make changes to behavior that will result in a benefit to local water quality.

## **STRUCTURAL STORMWATER MANAGEMENT FACILITIES**

This section covers the criteria and requirements for achieving credit for a structural stormwater management facility.

### ***Stormwater Management Facility Credit***

The City will provide a 20% credit against the stormwater utility fee for impervious areas draining to a stormwater management facility installed as a condition of development to meet the

requirements of the Virginia Stormwater Management Program (VSMP) permit regulations or its predecessor regulations. The City will provide a 40% credit against the stormwater utility fee for impervious areas draining to a stormwater management facility installed voluntarily that meets the technical standards contained in the Virginia Stormwater BMP Clearinghouse or other state-recognized design guidance. Credit applies only to the impervious areas draining to the structural stormwater management facility.

The policy of the City Council is to maintain the percent credit for a voluntary stormwater management facility for a minimum of 15 years.

### ***Stormwater Detention Credit***

The City will provide up to 30% credit against the stormwater utility fee for stormwater detention above that required in Chapter 35 “Stormwater” of the City Code. The credit applies only to the impervious areas draining to the stormwater detention facility. Once the Director of Public Works has determined that any statutory requirements have been met, the following credits will be available:

- 10% credit for detention of stormwater resulting from a one inch rainfall or greater and less than two inches.
- 20% credit for detention of stormwater resulting from two inches of rainfall or greater and less than three inches.
- 30% credit for detention of stormwater resulting from rainfall of three inches or greater.

The policy of the City Council is to maintain the percent credit for a detention facility installed in accordance with this section for a minimum of 15 years.

### ***Credit for Off-Site Impervious Surfaces***

Credit may be applied to off-site impervious areas that are not currently served by a structural stormwater management facility that are within the public right-of-way (e.g., City streets) provided that the facility has been approved by the Director of Public Works. The Director of Public Works will only approve a facility for off-site treatment credit if at his sole discretion it is determined that the stormwater management benefits achieved are in the best interest of the City.

***Eligibility Criteria for Structural Facilities***

To be eligible for a credit, a structural stormwater management facility must meet the following requirements:

<p>Technical Standards</p>	<ul style="list-style-type: none"> <li>• The facility must have been designed, installed, and accepted by the City in accordance with the technical standards required by the City at the time of construction.</li> <li>• For facilities built July 1, 2014, and after, the technical standards are those contained in the Virginia Stormwater BMP Clearinghouse <a href="http://vwrrc.vt.edu/swc/">http://vwrrc.vt.edu/swc/</a> or other state-approved design guidance documents.</li> </ul>
<p>Maintenance Agreement</p>	<ul style="list-style-type: none"> <li>• The facility must have a signed and properly recorded and executed maintenance agreement with the City.</li> <li>• The City may require an existing maintenance agreement to be updated to meet current standards for maintenance and inspections.</li> </ul>
<p>Function Verification</p>	<ul style="list-style-type: none"> <li>• The facility must currently function as designed. Functionality will be verified through periodic City inspections and through any reporting requirements contained in the properly executed maintenance agreement.</li> <li>• If the facility fails a City inspection or the owner fails to submit maintenance documents as required in the maintenance agreement, the City will revoke the credit if corrective actions are not taken within the time specified by the City.</li> </ul>

***Application Process***

A Structural Stormwater Facility Credit Application Form must be submitted by the owner of the stormwater management facility or his/her legal agent and approved by the City to receive a credit. The form must be received prior to January 1 of any given year to be considered for credit in the upcoming stormwater utility billing cycle. Credits will not be pro-rated. Special exceptions may be made by the Director of Public Works for the first year of credit implementation. The following documentation will be required:

<p>Structural Stormwater Facility Credit Application Form</p>	<p>This form is provided by the City.</p>
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Drainage Area Map	This is a to-scale map showing property lines, impervious areas, stormwater management facility drainage area boundaries, and the total impervious cover draining to the facility. The property owner should check with the City to determine whether this information is already on file with the City.
Stormwater Management Facility Description	This should reference type, date of installation, and any other details to be considered with respect to pollutant removal.
Narrative of Maintenance and Repairs	This is a history of facility maintenance and repair activities.
Photos	Provide at least two date-stamped images showing the facility within one month of the application date.
Stormwater Facility Maintenance Agreement	Include a copy of the agreement that allows the City access to the site and establishes enforceable maintenance and reporting requirements.

Once a credit has been approved, the property owner will remain eligible for the credit subject to any changes to this policy document as long as all conditions of the maintenance agreement are met and the facility passes periodic inspections by City staff. If the property owner fails to submit required documentation or correct deficiencies within the time specified by City staff, the facility will no longer be eligible for credit. If this occurs, the property owner will be required to reapply through the initial credit process.

## **STORMWATER POLLUTION PREVENTION PRACTICES**

The City will provide a 10% credit against the stormwater utility fee for a property owner who implements a Stormwater Pollution Prevention Plan (SWPPP) that meets the requirements of this section. SWPPP credits may not be applied to off-site areas. Two categories of SWPPP credits are available:

- Individual Residential SWPPP Credit – This credit is available to any individual residential property owner, including single family detached homes, townhomes, duplexes, and condominium unit owners if they are separately billed the utility fee.
- General SWPPP Credit – This credit is available to all property owners, regardless of land use.

To receive the SWPPP credit, the property owner may choose from the “tool-box” of potential practices described below with each practice worth a designated number of points. A property owner achieving 10 points or more will receive the SWPPP credit of 10% of the annual stormwater fee.

***Individual Residential SWPPP Credit***

The following table presents practices and requirements for obtaining points toward the individual residential SWPPP credit. Refer to Technical Resources and References for cited technical manuals and specifications. All credits, except where noted, are ongoing provided that the property owner maintains the practice and submits an annual Residential SWPPP Application Form.

<b>Practice</b>	<b>Description</b>	<b>Points</b>	<b>Requirements</b>
Watershed Stewardship	Participate in a City-sanctioned volunteer event, including but not limited to stream clean-ups, storm drain stenciling projects, adopt-a-highway, and tree planting. Refer to the City’s web page for a list of events.	1 point per hour volunteered. Multiple members of a household may participate and accumulate points.	Indicate hours worked on Residential SWPPP Application Form.
Rain Barrels	Install a rain barrel with a capacity of at least 50 gallons to capture stormwater from a downspout. Construction and installation guidance is provided on the Northern Virginia Soil and Water Conservation	2 points for each rain barrel that captures stormwater from a separate downspout.	Verify size and number of barrels on the Residential SWPPP Application Form. Include picture(s) with the initial application. Verify continued maintenance using the Residential SWPPP Application Form.
Rain Garden	Install a rain garden that meets the requirements of the	5 points for a rain garden covering 50 square feet or	City staff must be contacted to approve the design and inspect the final

Practice	Description	Points	Requirements
	Forestry Rain Gardens Technical Guide or the Northern Virginia Soil and Water Conservation District Rain Garden Design and Construction	10 points for a rain garden covering 100 square feet or greater.	Verify continued maintenance using the Residential SWPPP Application Form.
Tree Planting	Plant a tree through the City's Neighborhood Tree Program or privately plant a tree with approval from the City Arborist.	2 points per tree.	The City Arborist must review and approve the type of tree and placement prior to planting. Verify continued maintenance using the Residential SWPPP Application Form.
Conservation Landscaping	Convert turf grass to conservation landscaping in accordance with requirements of the Homeowner Guide for a More Bay-Friendly Property published by the Chesapeake	3 points for every 100 square feet of conservation landscaping that replaces turf.	City staff must be contacted to approve the design and inspect the final result. Verify continued maintenance using the Residential SWPPP Application Form.
Downspout Disconnection	Disconnect downspouts that currently drain to a public street or other impervious area. The downspout must be redirected to a pervious area that will not cause erosion or flooding	1 point per disconnected downspout. Credit available for 5 years after disconnection.	City staff must be contacted to approve the disconnection and ensure that it will not cause erosion or flooding. Verify continued disconnection using the Residential SWPPP Application Form.
Permeable Pavers and Porous Pavement	Replace traditional driveway, patio, or other impervious areas with permeable pavers or porous pavement in accordance with {need standard to be used by the City}	5 points for 250 square feet or greater; 10 points for 500 square feet or greater.	City staff must be contacted to approve the design and inspect the final result. Verify continued maintenance using the Residential SWPPP Application Form.
No Fertilizer Pledge	Sign a pledge to not apply fertilizer to your lawn or landscaped areas.	1 point.	Sign statement using the Residential SWPPP

Green Streetscape	Allow the City to install stormwater management techniques as part of the streetscape in front of your	Number of points at the discretion of the DPW Director.	Requirements at the discretion of the DPW Director.
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**General SWPPP Credit**

The following table presents practices and requirements for obtaining points toward the general SWPPP credit. Refer to Technical Resources and References for cited technical manuals and specifications. All credits, except where noted, are ongoing provided that the property owner maintains the practice and submits an annual General SWPPP Application Form.

Practice	Description	Points	Requirements
Watershed Stewardship	Participate in a City-sanctioned volunteer event, including but not limited to stream clean-ups, storm drain stenciling projects, adopt-a-highway, and tree planting. Refer to the	0.5 point per employee hour volunteered.	Indicate hours worked on General SWPPP Application Form.
Rain Barrels	Install a rain barrel with a capacity of at least 50 gallons to capture stormwater from a downspout. Construction and installation guidance is provided on the Northern Virginia Soil and Water Conservation District <a href="#">web page</a> .	Divide 5 by total number of downspouts. The resulting fraction is the number of points per rain barrel that captures stormwater from a separate	City staff must approve the placement and maintenance plan for the rain barrels. Verify size and number of barrels on the General SWPPP Application Form. Include picture(s) with the initial application. Verify continued maintenance using the General SWPPP Application Form.
Tree Planting	Plant a tree through the City's Neighborhood Tree Program or privately plant a tree with approval from the City Arborist.	2 points per tree.	The City Arborist must review and approve the type of tree and placement prior to planting. Verify continued maintenance using the General SWPPP Application

Conservation Landscaping	Convert turf grass to conservation landscaping in accordance with requirements of the Homeowner Guide for a More Bay-Friendly Property published by the Chesapeake Stormwater Network.	3 points for every 100 square feet of conservation landscaping that replaces turf.	City staff must be contacted to approve the design and inspect the final result. Verify continued maintenance using the General SWPPP Application Form.
Street Sweeping	Sweep all surface parking areas using a vacuum sweeper at least 26 times per year.	10 points.	Verify frequency of sweeping and total materials swept using the General SWPPP Application Form.
Pet Waste Stations	Install pet waste stations, including bags and receptacle along with waste collection schedule.	5 to 10 points.	Credit at the discretion of the Director of DPW based on an evaluation of the area to be considered and the severity of pet waste as a localized water quality problem. Number and placement of stations to be determined collaboratively, with final approval by City staff. Verify continued maintenance using the General SWPPP Application Form.
Certified Nutrient Management Plan	Nutrient management plan developed by a state-certified nutrient management	10 points.	Provide the City with a copy of the certified nutrient management plan. Verify continued application of the plan using the General SWPPP Application Form.
Stormwater Pollution Prevention Plan for High Risk Facilities	Adopt and implement a SWPPP in accordance with the requirements established in 9VAC25-151-80 (industrial stormwater permits). The facility must meet the definition of a “high risk facility” in the City’s Municipal	10 points.	Provide the City with a copy of the adopted SWPPP. Verify continued implementation using the General SWPPP Application Form.



<p>Watershed Education Credit (available to non-governmental pre-school or elementary schools)</p>	<p>Incorporate watershed education into pre-school or elementary school curriculum. Eligible programs include the Northern Virginia Soil and Water Conservation District EnviroScape model and other</p>	<p>8 points if the program is designed to ensure that each student participates in the watershed education program at least once during a typical tenure at the school</p>	<p>City staff must be contacted to approve the curriculum. Verify continued implementation using the General SWPPP Application Form.</p>
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***SWPPP Credit Application Process***

The Residential SWPPP Application Form or the General SWPPP Application Form, as appropriate, must be completed and submitted to the City on an annual basis to receive the individual residential SWPPP credit. The form must be received prior to January 1 of any given year to be considered for credit in the upcoming stormwater utility billing cycle. Credits will not be pro-rated. Special exceptions may be made by the Director of Public Works for the first year of credit implementation.

**CREDIT CALCULATION METHODOLOGY**

***Combination of Credits***

The Stormwater Management Facility Credit and the Stormwater Detention Credit are cumulative if a facility or combination of facilities provides treatment to stormwater from the same area of impervious cover. The maximum amount of credit that can be achieved for stormwater generated on-site is 70% (e.g 30% for water quality, 30% for water quantity, 10% for SWPPP). In addition, a property owner may, in accordance with the requirements of this policy document, apply credits for structural stormwater management facilities that control stormwater from impervious areas within the public right-of-way (e.g., City streets) to achieve an effective credit of greater than 70%. The 10% credit for an approved SWPPP is applied to the whole stormwater utility fee prior to application of the credit for structural stormwater management facilities. However, in all cases the maximum credit that can be achieved for any one property shall be 95%.

The following methodology will be used for all credit calculations:

- (A) Total Billable (On-Site) Impervious Area = \_\_\_\_\_ Square Feet
- (B) Billing Units = (A) / 200 Square Feet Rounded to Next Whole Number = \_\_\_\_\_
- (C) Initial Annual Stormwater Utility Fee = (B) \* \$18 = \$\_\_\_\_\_
- (D) Impervious Area Draining to Condition of Development SWM Facility = \_\_\_\_\_ Square Feet
- (E) Impervious Area Reduction for Condition of Development SWM Facility = (D) \* 0.20 = \_\_\_\_\_ Square Feet
- (F) Impervious Area (On-Site and Off-Site) Draining to Voluntary SWM Facility = \_\_\_\_\_
- (G) Impervious Area Reduction for Voluntary SWM Facility = (F) \* 0.40 = \_\_\_\_\_
- (H) Impervious Area (On-Site and Off-Site) Draining to Detention Facility = \_\_\_\_\_
- (I) Impervious Area Reduction for Detention Facility = (H) \* (0.10, 0.20, or 0.30 Depending on Detention Volume) = \_\_\_\_\_
- (J) SWPPP Adjustment = (A) \* 0.10 = \$\_\_\_\_\_
- (K) Total Impervious Area Reduction = (E) + (G) + (I) + (J) = \_\_\_\_\_ Square Feet
- (L) Adjusted Billable Impervious Area = (A) - (K) = \_\_\_\_\_ Square Feet, But Not Less Than Zero
- (M) Adjusted Billing Units = (L) / 200 Square Feet Rounded to Next Whole Number = \_\_\_\_\_
- (N) Adjusted Annual Stormwater Utility Fee = (L) \* \$18 = \$\_\_\_\_\_
- (O) Minimum Stormwater Fee = (C) \* 0.05 = \$\_\_\_\_\_
- (P) Final Annual Stormwater Utility Fee = (N) or (O), whichever is greater.

## **TECHNICAL RESOURCES AND REFERENCES**

Virginia Stormwater BMP Clearinghouse, Virginia Department of Environmental Quality <http://vwrrc.vt.edu/swc/>

Northern Virginia Soil and Water Conservation District (NVSWCD) Rain Barrel Program [www.fairfaxcounty.gov/nvswcd/rainbarrels.htm](http://www.fairfaxcounty.gov/nvswcd/rainbarrels.htm)

City of Falls Church Neighborhood Tree Program [www.fallschurchva.gov/content/government/departments/publicworks/urbanforestry/programs/neighborhoodtree.aspx](http://www.fallschurchva.gov/content/government/departments/publicworks/urbanforestry/programs/neighborhoodtree.aspx)

Rain Gardens Technical Guide, Virginia Department of Forestry [www.dof.virginia.gov/mgt/riparian/rain-gardens.htm](http://www.dof.virginia.gov/mgt/riparian/rain-gardens.htm)

Homeowner Guide for a More Bay-Friendly Property, Chesapeake Stormwater Network [chesapeakestormwater.net/wp-content/uploads/downloads/2013/10/Final-CSN-Homeowner-Guide\\_100113-NXPowerLite.pdf](http://chesapeakestormwater.net/wp-content/uploads/downloads/2013/10/Final-CSN-Homeowner-Guide_100113-NXPowerLite.pdf)

Rain Garden Design and Construction Guide, NVSWCD <http://www.fairfaxcounty.gov/nvswcd/raingardenbk.pdf>

EnviroScape Program, NVSWCD [www.fairfaxcounty.gov/nvswcd/enviroscape.htm](http://www.fairfaxcounty.gov/nvswcd/enviroscape.htm)

**RESIDENTIAL SWPPP APPLICATION FORM**

Applicant Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 Property Information:  
 Owner: \_\_\_\_\_  
 Street \_\_\_\_\_  
 City, State, ZIP Code \_\_\_\_\_

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Watershed Stewardship	Activity	Date	Hours
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Total Hours

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Total Points (1 Hour = 1 Point)

Rain Barrels	Year Installed	Capacity	# Installed
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Total Barrels

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Include a picture of new rain barrels installed this year.

Total Points (1 Barrel = 2 Points)

Rain Garden	Area	City Approval Date
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Total Area

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Total Points (5 Points for  $\geq 50$ SF)

10 Points for  $\geq 100$ SF)

Tree Planting	# Trees	City Approval Date
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Total Trees

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Total Points (1 Tree = 2 Points)

Conservation Landscaping	Area	City Approval Date
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Total Area

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Total Points (Each 100SF = 3 Points)

Downspout Disconnection                      Year Disconnected      City Approval Date

Total Area

Note no credit for disconnection > 5 years.  
Total Points (1 Disconnection = 1 Point)

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Permeable Pavers

Area

City Approval Date

Total Area

Total Points (5 Points for  $\geq 250SF$   
10 Points for  $\geq 500SF$ )

No Fertilizer Pledge	<input type="checkbox"/>	I pledge that I will not apply commercial fertilizer on my property during the credit year. Total Points (Yes = 1 Point)
Green Streetscape		City Approval Date
		Total Points (Provided by City)

**Total Residential SWPPP Points**

- I certify that the above information, to the best of my knowledge and belief, is true, accurate and complete.
- I certify that practices installed on my property for which I am taking credit are functioning as intended and are being maintained in accordance with guidance provided by the City.
- I certify that I have received proper authorization from my homeowners or condominium association for the practices installed, if applicable.
- I agree that City staff may have access to my site for the sole purpose of verifying these practices. Should City staff find a deficiency, I also understand that I must correct the deficiency in the time frame provided by the City and that if corrective action is not taken in a timely manner, that I will no longer be able to take credit for the practice.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

RESOLUTION 2013-43

RESOLUTION TO AUTHORIZE THE CITY MANAGER TO  
EXECUTE A LEASE WITH THE NORTHERN VIRGINIA  
REGIONAL PARK AUTHORITY FOR THE TINNER HILL  
HISTORIC SITE

WHEREAS, the Property is located on two parcels that straddle the boundary between the County and the City, and which is shown on Fairfax County Tax Map as Tax Map No 50-2 ((7)) parcel 2 and City of Falls Church Tax Map No. 53-111-001; and

WHEREAS, one parcel is owned by the County and one parcel is owned by the City as shown on Exhibit A attached hereto; and

WHEREAS, the County and the City have encumbered the Property with a conservation easement that will ensure the long term use of the Property as set forth herein; and

WHEREAS, the Northern Virginia Regional Park Authority (NVRPA) will enter into a long-term lease with the City and the County, and which lease provides general terms and conditions for the NVRPA's management of the Property as a public historic site for the primary purpose of historic interpretation; and

WHEREAS, the Tinner Hill Heritage Foundation (THHF) is a non-profit, 501(c)(3) entity whose mission is to research, document, preserve, and interpret the African American history and culture of Falls Church, Virginia and nearby communities. The THHF focuses particularly on the events and individuals at the Tinner Hill Historic Site that were part of the early twentieth century struggle to fight segregation and seek equal rights.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute a lease with the Northern Virginia Regional Park Authority for the Tinner Hill Historic Site with 2232 Comprehensive Plan concurrence, pursuant to the terms below or better with the review and approval of the City Attorney. Such terms shall include:

- 1) the City will lease, for a 99-year term, the land identified as parcel number 53-111-001 on the City of Falls Church Tax Map (about 1/4 acre) to the NVRPA for the exclusive right to use the premises for the development, construction, operation, maintenance, and use of recreational facilities in conformance with the conservation easements on the property;

- 2) NVRPA, at its own expense shall keep and maintain, or cause to be kept and maintained, the property including, but not limited to, landscaping, lighting, sidewalks, parking lots, snow removal and drainage, and all Improvements which are or may be erected in a safe condition and a good state of appearance and repair, reasonable wear and tear; and
  
- 3) A memorandum of understanding between the City/County/THHF/NVRPA must remain in effect through the term of the lease that specifies the partnership roles and responsibilities.

Reading: 12-9-13  
Adoption: 12-9-13  
(TR13-45)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-43.



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Kathleen Clarcken Buschow  
City Clerk



RESOLUTION 2013-44

RESOLUTION TO AUTHORIZE THE CITY MANAGER TO  
EXECUTE TWO CONSERVATION EASEMENTS ON THE TINNER  
HILL HISTORIC SITE

WHEREAS, the Property is located on two parcels that straddle the boundary between the County and the City, and which is shown on Fairfax County Tax Map as Tax Map No 50-2 ((7)) parcel 2 and City of Falls Church Tax Map No. 53-111-001; and

WHEREAS, one parcel is owned by the County and one parcel is owned by the City as shown on Exhibit A attached hereto; and

WHEREAS, the County and the City desire to encumber the two Properties with a conservation easement that will ensure the long term use of the Property as set forth herein; and

WHEREAS, the Northern Virginia Regional Park Authority (NVRPA) will enter into a long-term lease with the City and the County, and which lease provides general terms and conditions for the NVRPA's management of the Property as a public historic site for the primary purpose of historic interpretation; and

WHEREAS, the Tinner Hill Heritage Foundation (THHF) is a non-profit, 501(c)(3) entity whose mission is to research, document, preserve, and interpret the African American history and culture of Falls Church, Virginia and nearby communities. The THHF focuses particularly on the events and individuals at the Tinner Hill Historic Site that were part of the early twentieth century struggle to fight segregation and seek equal rights.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute the Tinner Hill Historic Site conservation easements with Fairfax County with said terms or better with the review and approval of the City Attorney. The terms shall include: 1) the City and County give and convey a perpetual historic preservation and open-space easement over the Property for the preservation of an historically important land area pursuant to Section 170(h)(4) of the Internal Revenue Code (IRC) and section 1.170A-14(d)(4) of the associated Treasury Department Regulations; 2) the preservation of this land will yield a significant public benefit to both the County and City consistent with the respective comprehensive and area plans; 3) the easements have been prepared by legal counsel compliant with all federal, state and local requirements; and 4) the County will hold the easement protecting the City property and the City will hold the easement protecting the County

property to achieve the preservation goals but to retain easement authority in local government oversight.

Reading: 12-9-13  
Adoption: 12-9-14  
(TR13-46)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-44.



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Kathleen Clarcken Buschow  
City Clerk

RESOLUTION 2013-45

RESOLUTION TO AUTHORIZE THE CITY MANANGER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FALLS CHURCH, FAIRFAX COUNTY, THE NORTHERN VIRGINIA REGIONAL PARK AUTHORITY, AND THE TINNER HILL HERITAGE FOUNDATION

- WHEREAS, the Property is located on two parcels that straddle the boundary between the County and the City, and which is shown on Fairfax County Tax Map as Tax Map No 50-2 ((7)) parcel 2 and City of Falls Church Tax Map No. 53-111-001; and
- WHEREAS, one parcel is owned by the County and one parcel is owned by the City as shown on Exhibit A attached hereto; and
- WHEREAS, the County and the City have encumbered the Property with a conservation easement that will ensure the long term use of the Property as set forth herein; and
- WHEREAS, the Northern Virginia Regional Park Authority (NVRPA) will enter into a long-term lease with the City and the County, and which lease provides general terms and conditions for the NVRPA's management of the

Property as a public historic site for the primary purpose of historic interpretation; and

WHEREAS, the Tinner Hill Heritage Foundation (THHF) is a non-profit, 501(c)(3) entity whose mission is to research, document, preserve, and interpret the African American history and culture of Falls Church, Virginia and nearby communities. The THHF focuses particularly on the events and individuals at the Tinner Hill Historic Site that were part of the early twentieth century struggle to fight segregation and seek equal rights.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute the Tinner Hill Historic Site Memorandum of Understanding with the terms as noted below or better with the review and approval of the City Attorney. These terms shall include: 1) the Tinner Hill Historic Site will serve as a vibrant public site that will reflect the history, culture, and civil rights activism that occurred on the property from the Civil War to contemporary times; 2) the NVRPA will manage the site, direct any physical development of the site, and promote the site as one of the historic facilities of the Authority; 3) NVRPA will include the Property on its web site, and will implement the initial development phase of the Property; 4) THHF will have a major role in determining the direction and content of the interpretive materials and programs that will be available to the public; 5) THHF will work with the NVRPA and other groups and individuals, as appropriate, on conceiving and developing exhibitions; and 6) THHF will be recognized on any signage at the site for its role in preserving and interpreting the history of the site.

Reading: 12-9-13  
Adoption: 12-9-13  
(TR13-47)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-43.



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Kathleen Clarcken Buschow  
City Clerk

RESOLUTION 2013-46

RESOLUTION DECLARING THE POSITION OF THE FALLS  
CHURCH CITY COUNCIL THAT CORPORATIONS SHOULD NOT  
RECEIVE THE SAME LEGAL RIGHTS AS NATURAL PERSONS,  
THAT MONEY IS NOT SPEECH, AND THAT POLITICAL  
EXPENDITURES CAN BE REGULATED

- WHEREAS, the United States Constitution was adopted and ratified to protect the free speech and other rights of individuals, not corporations; and
- WHEREAS, the United States Supreme Court's decision in Citizens United v. Federal Election Commission overturned longstanding precedent prohibiting corporations (and unions) from spending general treasury funds in elections; and
- WHEREAS, Citizens United v. Federal Election Commission, and related federal court decisions, present a serious and direct threat to our nation's republican democracy, while standing in direct contrast to the City of Falls Church's commitment to good government, civic and civil discourse, and broad participation in local decision-making; and
- WHEREAS, Article V of the United States Constitution empowers the people and states of the United States of America to use the Constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and republican self-government; and
- WHEREAS, the people and states of the United States of America have strengthened the nation and preserved liberty and equality for all by using the amendment process throughout our history, including the overturning of Supreme Court decisions.
- NOW, THEREFORE, BE IT RESOLVED that the City Council of Falls Church, Virginia commends the efforts of Congressman James P. Moran to address this issue; and
- BE IT FURTHER RESOLVED that (i) the City Council of the City of Falls Church, Virginia calls upon the Virginia General Assembly and the United States Congress to support an amendment to the U.S. Constitution to reverse Citizens United v. Federal Election Commission, and related cases, and to restore constitutional rights and fair elections to the people, and (ii) that constitutional amendment should make clear (a) that corporations are not entitled to the constitutional protections or "rights" of natural persons; (b) that money is not speech; (c) that regulating election-related spending is not the same as limiting political speech; and (d) that Congress and the states may place limits on election contributions and expenditures.

Reading: 12-9-13  
Adoption: 12-9-13  
(TR13-39)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2014 as Resolution 2013-46.



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Kathleen Clarcken Buschow  
City Clerk

RESOLUTION 2013-47

RESOLUTION REQUESTING THE ENVIRONMENTAL  
PROTECTION AGENCY (EPA) TO ACT TO REDUCE CARBON  
POLLUTION WHILE BUILDING RESILIENT COMMUNITIES

- WHEREAS, the International Governmental Panel on Climate Change calls climate change “the greatest challenge of our time” and predicts that climate change will cause negative, unprecedented changes in the climate system, including increasingly severe and frequent extreme weather events; and
- WHEREAS, the Union of Concerned Scientists agrees that human activity, such as burning fossil fuels and deforestation, is the primary cause of global warming; and
- WHEREAS, the Organization for Economic Cooperation and Development has identified the Virginia region as vulnerable to flooding from storm surges and sea level rise fueled by climate change; and
- WHEREAS, scientists have called for reductions in carbon pollution to avoid the predicted negative impacts of climate change; and
- WHEREAS, the U.S. Supreme Court ruled in *Massachusetts v. EPA* (2007) that greenhouse gases are “air pollutants” as defined by the Clean Air Act

and the Environmental Protection Agency has the authority to regulate them; and

WHEREAS, the President has instructed the Environmental Protection Agency to regulate greenhouse gases from both new and existing power plants, which are the nation's single largest sources of such pollution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Falls Church, Virginia:

- (1) that the Council respectfully requests that the Environmental Protection Agency finalize standards that curb carbon pollution from new and existing power plants under the authority of the Clean Air Act; and
- (2) that the City Clerk is hereby directed to provide a copy of this resolution be sent to the Administrator for the Environmental Protection Agency; and
- (3) that the Council respectfully requests Virginia's leaders to support these climate solutions.

Reading: 12-09-13  
Adoption: 12-09-13  
(TR13-48)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on December 9, 2013 as Resolution 2013-47.



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Kathleen Clarcken Buschow  
City Clerk