



TOWN OF HAYMARKET TOWN COUNCIL

REGULAR MEETING ~ AGENDA ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Monday, February 6, 2017

7:00 PM

Council Chambers

1. Call to Order

2. Invocation - Pastor Mark Brady, Park Valley Church

3. Pledge of Allegiance

4. Citizen's Time

5. Consent Agenda

A. SP2014-0220 - Sheetz Final Site Plan

B. Mayor and Council - Regular Meeting - Sep 8, 2016 7:00 PM

C. Mayor and Council - Regular Meeting - Dec 5, 2016 7:00 PM

D. Mayor and Council - Special Meeting - Dec 30, 2016 9:00 AM

E. Mayor and Council - Regular Meeting - Jan 3, 2017 7:00 PM

F. Mayor and Council - Special Meeting - Jan 25, 2017 8:30 AM

G. Mayor and Council - Special Meeting - Feb 1, 2017 5:30 PM

6. Department Reports

A. Building Official's Report - Joe Barbeau

B. Town Engineer's Report - Holly Montague

C. Police Department Report - Chief Lands

D. Town Planner's Report - Susannah Smith

E. Business & Community Relations Report - Denise Andrews

F. Town Manager's/Treasurer's Reports - Kimberly Murray

7. Agenda Items

A. Dominion Virginia Power - Update

B. VRE - Gainesville/Haymarket Extension - Update

C. Resolution #2017-001 to Adopt Virginia 457 Retirement Plan for the Town of Haymarket

Presenters: David Sharer, Vice President of ICMA-RC Mid-Atlantic Field Sales and Kimberly Murray.

8. Closed Session

A. Enter into Closed Session

CLOSED SESSION PURSUANT TO 2.2-3711 A1: Discussion of assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; specifically employees of the Town.

Consultation with legal counsel or briefing by staff about probable litigation involving a contract for services to the Town as consultation or briefing in open meeting would adversely affect the Town's negotiating or litigating posture, and the Virginia Freedom of Information Act at Virginia Code 2.2-3711 paragraph (A)(7), permits such discussion in closed session.

B. Certification of the Closed Session

9. Councilmember Time

A. John Cole

B. Susan Edwards

C. Steve Aitken

D. Chris Morris

E. Joe Pasanello
F. Connor Leake
G. David Leake

10. Adjournment



MEMORANDUM

TO: MEMBERS OF THE TOWN COUNCIL

FROM: MATT CAUDLE, PLANNING COMMISSION CHAIR

VIA: SUSANNAH B. SMITH, CFM, ASLA – TOWN PLANNER

SUBJECT: SHEETZ FINAL SITE PLAN REVIEW (SP2014-0220)

DATE: 2/1/2017

CC: FILE

We received the full submission package for Haymarket Sheetz – Final Site Plan #SP-2016-080 for review in accordance with the Town of Haymarket Zoning Ordinance and all other applicable requirements, as set forth under Code of Virginia § 15.2-2258.

Attached is the report prepared by the Town Planner in accordance with the items set forth in Article 58-13, Site Plan Requirements. The project will need to be bonded per Section 58-512 of the Town Code, and such bonds will need to be approved by the Town Council per the project costs on the Cover Sheet (p. 1 of 30).

The Planning Commission has reviewed the submission and, after receiving public comment at their regular meeting, Wednesday, February 1, 2017, the Planning Commission met and voted as follows:
To approve the Final Site Plan for Haymarket Sheetz – Final Site Plan #SP-2016-080 prepared and stamped by J. Scott Pierson of Gordon Engineering on January 11, 2017.

The Final Site plan is therefore approved in accordance with Virginia Code § 15.2-2259.

Paper copies of the site plan package are available in our offices for public viewing. You may drop by to review it any time during business hours.

HAYMARKET SHEETZ CONVENIENCE STORE: FINAL SITE PLAN SUBMISSION
 #SP-2014-0220 1 FEBRUARY 2017

Draft motions:

HAYMARKET TOWN COUNCIL

**IN RE: Sheetz Haymarket Convenience Store, 15315 Washington Street, Haymarket, Virginia
 Redevelopment Final Site Plan #SP2016080**

DRAFT MOTIONS:

1. I move that the Town Council approve the bond amounts as submitted for Final Site Plan #SP20140220, Haymarket Sheetz Convenience Store (Final Site Plan), prepared by Gordon and dated December 15, 2014, revised through January 11, 2017;

OR

2. I move that the Town Council disapprove the bond amounts as submitted for Final Site Plan #SP20140220, Haymarket Sheetz Convenience Store (Final Site Plan), prepared by Gordon and dated December 15, 2014, revised through January 11, 2017;

OR

3. I move an alternate action.

Motion made by: _____

Second: _____

Final Vote:	For	Against	Abstain	Absent
S Aitken				
J Cole				
S Edwards				
C Leake				
D Leake				

Attest: _____, Interim Town Clerk
 Denise Andrews

Attachment: SP 2014-0220 - Sheetz Final Site Plan (3059 : SP2014-0220 - Sheetz Final Site Plan)

BOND ESTIMATE		
Item	Town Bond	VDOT Bond
Total Construction Cost	\$1,474,587.00	
Administrative Cost	\$50,000.00	
Inflation Cost	\$44,237.61	
Total Performance Bond Amount	\$1,568,824.61	
Total Landscape Escrow	\$17,902.00	
Total Siltration and Erosion Control Escrow	\$54,790.00	

ATION	<p style="font-size: 1.2em; margin: 0;">PUBLIC RECORD COPY</p> <p style="font-size: 1.2em; margin: 0;">DO NOT REMOVE</p>							
<div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div>	<p>REVIEWED BY: <u><i>James H. Daye</i></u> <i>Project Administrator</i></p>	<p>APPROVED BY: <u><i>Neil Elmer</i></u> <i>PLANNING</i> <i>COMMISSION CHAIR</i></p> <p style="text-align: right; margin-right: 50px;"><i>2/1/17</i></p>						
	<p style="font-size: 0.8em;">This plan has been reviewed and has been found to be in general conformance with the requirements of Prince William County. The developer is hereby authorized to obtain all necessary land development permits, subject to all design, procedures, materials and workmanship being in compliance with local requirements. If not bonded or permitted (if applicable) within one year of the authorized date or lawfully extended, this authorization will expire. A valid agreement and bond with Prince William County must be maintained to assure plan and permit validity.</p>							
	<p style="font-weight: bold; font-size: 1.1em;">VICINITY MAP</p>							
	<p style="text-align: center;">SCALE: 1" = 1000'</p> <p style="text-align: center;">SITE GPIN: 7298-70-1093</p>							
	<p style="font-weight: bold; font-size: 1.1em;">SHEET INDEX</p>							
<table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"> <thead> <tr> <th style="width: 30%;">VELOCITY (f)</th> <th style="width: 30%;">DEPTH</th> </tr> </thead> <tbody> <tr> <td>3 - 2.0 in/hr</td> <td>> 6.0 ft</td> </tr> </tbody> </table>	VELOCITY (f)	DEPTH	3 - 2.0 in/hr	> 6.0 ft	<table style="width: 100%; font-size: 0.8em;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> 1 COVER SHEET 2 GENERAL NOTES 3 EXISTING CONDITIONS AND DEMOLITION PLAN 4 SITE PLAN 5 SITE DIMENSIONING PLAN 6 GRADING PLAN 7 UTILITY PROFILES AND COMPUTATIONS 8 UTILITY DETAILS 9 SANITARY SEWER PUMP DETAILS 10 EROSION AND SEDIMENT CONTROL PLAN NARRATIVE 11 EROSION AND SEDIMENT CONTROL PLAN DETAILS 12 EROSION AND SEDIMENT CONTROL PLAN PHASE I 13 EROSION AND SEDIMENT CONTROL PLAN PHASE II 14 LANDSCAPE PLAN NOTES AND DETAILS 15 LANDSCAPE PLAN 16 SIGHT DISTANCE PLAN AND PROFILE 17 SIGHT DISTANCE PLAN AND PROFILE 18 SITE DETAILS 19 SITE DETAILS 20 WATER QUANTITY EXISTING CONDITIONS 21 WATER QUANTITY & QUALITY PROPOSED CONDITIONS 22 WATER QUALITY COMPLIANCE </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> 27 VDOT IMPROVEMENT PLAN (INFORMATIONAL PURPOSES ONLY) 28 PHASING PLAN 29 LIGHTING PLAN 30 PRINCE WILLIAM COUNTY BOND 30A PRINCE WILLIAM COUNTY BOND 30B PWCSA WATER & SEWER INFORMATION 30C PWCSA WATER & SEWER INSPECTOR LOG </td> </tr> </table>		<ul style="list-style-type: none"> 1 COVER SHEET 2 GENERAL NOTES 3 EXISTING CONDITIONS AND DEMOLITION PLAN 4 SITE PLAN 5 SITE DIMENSIONING PLAN 6 GRADING PLAN 7 UTILITY PROFILES AND COMPUTATIONS 8 UTILITY DETAILS 9 SANITARY SEWER PUMP DETAILS 10 EROSION AND SEDIMENT CONTROL PLAN NARRATIVE 11 EROSION AND SEDIMENT CONTROL PLAN DETAILS 12 EROSION AND SEDIMENT CONTROL PLAN PHASE I 13 EROSION AND SEDIMENT CONTROL PLAN PHASE II 14 LANDSCAPE PLAN NOTES AND DETAILS 15 LANDSCAPE PLAN 16 SIGHT DISTANCE PLAN AND PROFILE 17 SIGHT DISTANCE PLAN AND PROFILE 18 SITE DETAILS 19 SITE DETAILS 20 WATER QUANTITY EXISTING CONDITIONS 21 WATER QUANTITY & QUALITY PROPOSED CONDITIONS 22 WATER QUALITY COMPLIANCE 	<ul style="list-style-type: none"> 27 VDOT IMPROVEMENT PLAN (INFORMATIONAL PURPOSES ONLY) 28 PHASING PLAN 29 LIGHTING PLAN 30 PRINCE WILLIAM COUNTY BOND 30A PRINCE WILLIAM COUNTY BOND 30B PWCSA WATER & SEWER INFORMATION 30C PWCSA WATER & SEWER INSPECTOR LOG
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	<p style="font-weight: bold; font-size: 1.1em;">Site Plan Name: HAYMARKET SHEETZ CONVENIENCE STORE (FINAL SITE PLAN)</p>							
	<p style="font-weight: bold; font-size: 1.1em;">RECEIVED</p>							



MEMORANDUM

TO: MEMBERS OF THE PLANNING COMMISSION

FROM: SUSANNAH B. SMITH, CFM, ASLA – TOWN PLANNER

SUBJECT: SHEETZ FINAL SITE PLAN REVIEW (SP2014-0220)

DATE: 1/25/2017

CC: FILE

We have received the full submission package for Haymarket Sheetz – Final Site Plan #SP-2016-080 and have completed our review in accordance with the Town of Haymarket Zoning Ordinance and all other applicable requirements, under Code of Virginia § 15.2-2258.

My comments are summarized below.

The Architectural Review Board reviewed and approved a Certificate of Appropriateness for the proposed redevelopment in 2015.

In December 2015, the Town approved the following:

- 1) Special Use Permit to permit service station with fuel sales;
- 2) Special Use Permit to permit a Quick Service Food Store, accessory to the Service Station;
- 3) Special Use Permit for a comprehensive sign package for the Service Station;
- 4) Preliminary Site Plan; and
- 5) Waiver of certain preliminary site plan requirements regarding perimeter parking lot landscaping.

The submission was prepared and stamped by J. Scott Pierson of Gordon Engineering on January 11, 2017. There are no other outstanding issues to be addressed prior to review and final approval.

All of the outside reviewing agencies have completed their reviews, and the Town Engineer has forwarded her concurrence that the project is approvable under Town requirements.

The Final Site plan is therefore approvable in accordance with Virginia Code § 15.2-2259.

A paper copy of the site plan package is available in our offices for your use. You may drop by to pick it up any time during business hours. It is marked and labeled on the left-hand side of my desk and I will alert other Town Staff of its location for you.

Attachment: SP 2014-0220 - Sheetz Final Site Plan (3059 : SP2014-0220 - Sheetz Final Site Plan)

HAYMARKET SHEETZ CONVENIENCE STORE: FINAL SITE PLAN SUBMISSION
#SP-2014-0220 1 FEBRUARY 2017

	<p>proposed roadways on sites where such facilities are shown on the comprehensive plan.</p> <p>r. Location and character of all existing and proposed utilities and structures, such as water, sewer, gas, electric, telephone, wells and drainfields on the project parcel(2) and within 50' of the property lines with sizes and types labeled. Profiles for proposed water, sewer and gas included in the plans. Fire flow calculations shall be submitted separately to Town Clerk.</p> <p>s. Current Prince William County Service Authority Information Sheet included, filled out and signed.</p> <p>t. Floodplain study, if applicable.</p> <p>u. Storm drainage system including, all required computations, on the project parcel(s) and within 50' of the property line with sizes, type of pipe, gradients, invert elevations, profiles, direction of flow, drainage divides and areas for each structure.</p> <p>v. Stormwater Management and BMP facilities, including 10- and 100-year water surface elevations, and all required computations, BMP map, and access and maintenance easements.</p> <p>w. Final Grading Plan.</p> <p>x. Limits of proposed clearing and grading.</p> <p>y. Erosion and Sediment Control Plans including devices, locations, notes, and narratives. Erosion and Sediment Control Checklist per the Virginia Erosion and Sediment Control Handbook included in plans.</p> <p>z. Documentation and analysis for adequate outfall.</p> <p>aa. Final Landscape Plan.</p> <p>bb. Final Lighting/Photometric Plan.</p> <p>cc. Comprehensive Sign Plan, if applicable.</p> <p>dd. Unit Price List for Bonds and Escrows completed using current Prince William County Unit Price List.</p> <p>ee. Any approved waivers, variances or proffers included in plan set.</p> <p>ff. Plan for the phasing of development, if any.</p> <p>gg. Names of streets. Prior to being placed on any agendas, each proposed building shall be annotated with premise address assigned by the County Mapping Office.</p> <p>hh. Plat, draft deed(s) and draft stormwater management agreement shall be submitted with first submittal.</p> <p>ii. Revisions shall have a completed revision block on each sheet identifying the revisions. In addition, a revision to an approved plan shall include a detailed narrative outlining the proposed revisions and all revisions shall be circled in red.</p> <p>3) Any additional information which the approving authority deems necessary and appropriate to demonstrate compliance with this article or other conditions imposed by this chapter shall be submitted upon request of the Town Council.</p>	X			X
58-507	<p>NUMBER, AND SIZE OF SHEETS; NUMBER OF COPIES</p> <p>(a) A site plan may be prepared in one or more sheets to show clearly the information required by this article, to facilitate review and approval of the plan. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join and a single sheet of a general nature shall be provided which shows the individual sheets in proper relationship to one another.</p> <p>(b) The sheet to be used shall be a maximum of 24 inches by 36 inches in size.</p> <p>(c) The number of complete sets of blue or black line copies, prepared in accordance with the requirements of this article, shall be submitted as follows:</p> <ol style="list-style-type: none"> 1. Preliminary and Final Site Plan Review by Town Planner and Engineer: 2 Sets; 2. Preliminary Site Plan for Approval: 3 Sets; 3. Final Site Plan for Approval: 9 sets 	X			
58-512	<p>MINIMUM REQUIRED IMPROVEMENTS – TO BE BONDED:</p> <p>(a) The following minimum requirements, when shown on the plan, shall be assured by the applicant, and shall be constructed before any building permits are issued unless the applicant enters into an agreement to so construct and posts a bond for:</p> <ol style="list-style-type: none"> 1. Screening, fences or walls, sidewalks, and curb and gutter. 2. Easements or right-of-way for all facilities to be publicly maintained; however, each easement shall be clearly defined for the purpose intended. 3. Dedication or reservation of land for streets and service roads. <p>(b) The construction standards for both off-site and on-site improvements required by this article shall conform to the criteria of the County service authority; the State Department of Health; the State Department of Transportation; the State Erosion and Sediment Control laws and regulations; and the State Stormwater Management laws and regulations.</p> <p>(c) Any construction items not covered by these entities shall be constructed in accordance with acceptable engineering practice, which design shall be shown in detail on the site plan and shall be approved by the town council.</p>	X			

GENERAL NOTES

1. THE PRINCIPAL CLAIMANT, "VIRGINIA GEORGINA PEARCE," IDENTIFIED BY NUMBER FOR THE RECORD AS "VIRGINIA GEORGINA PEARCE," WAS BORN ON 1-1-1907, IN THE TOWN OF HUNTINGTON, WEST VIRGINIA, AND IS NOW 85 YEARS OF AGE, RESIDING AT 1515 WASHINGTON STREET.
2. THE PRINCIPAL CLAIMANT'S NAME IS NOW IN THE NAME OF "VIRGINIA, INC.," AND WAS KNOWN FROM 1940S TO 1950S, ALTHOUGH SHE DIED ABOUT FEBRUARY 22, 1954, AND RELOCATED IN NEW YORK CITY AT ABOUT THAT TIME. SHE DIED BEING ABOUT 47 YEARS OF AGE.
3. THE CLAIMANT INFORMATION RELAYED TO AND FROM THE CLAIMANT LATE 1950S AND TO THE CLAIMANT LATE 1960S, AND REPRESENTS A RELAYING PARTY, REPRESENTING, BY CONSENT, THE CLAIMANT TO VISIT THE CLAIMANTS WITH VERNICE P. HARRINGTON, BY CONSENT.

COUNTRY AND THE TOWN

- [illegible]

SPEED WILL DETERMINE
DUSTIER ENCLOSURE WILL
BE NECESSARY.

25. CHANGES OR ADDITIONS IN CONSTRUCTION PLANS SHALL NOT BE MADE UNLESS FIRST APPROVED BY THE GOVERNING AGENCIES, BEARING AUTHORITY FROM APPROVAL.

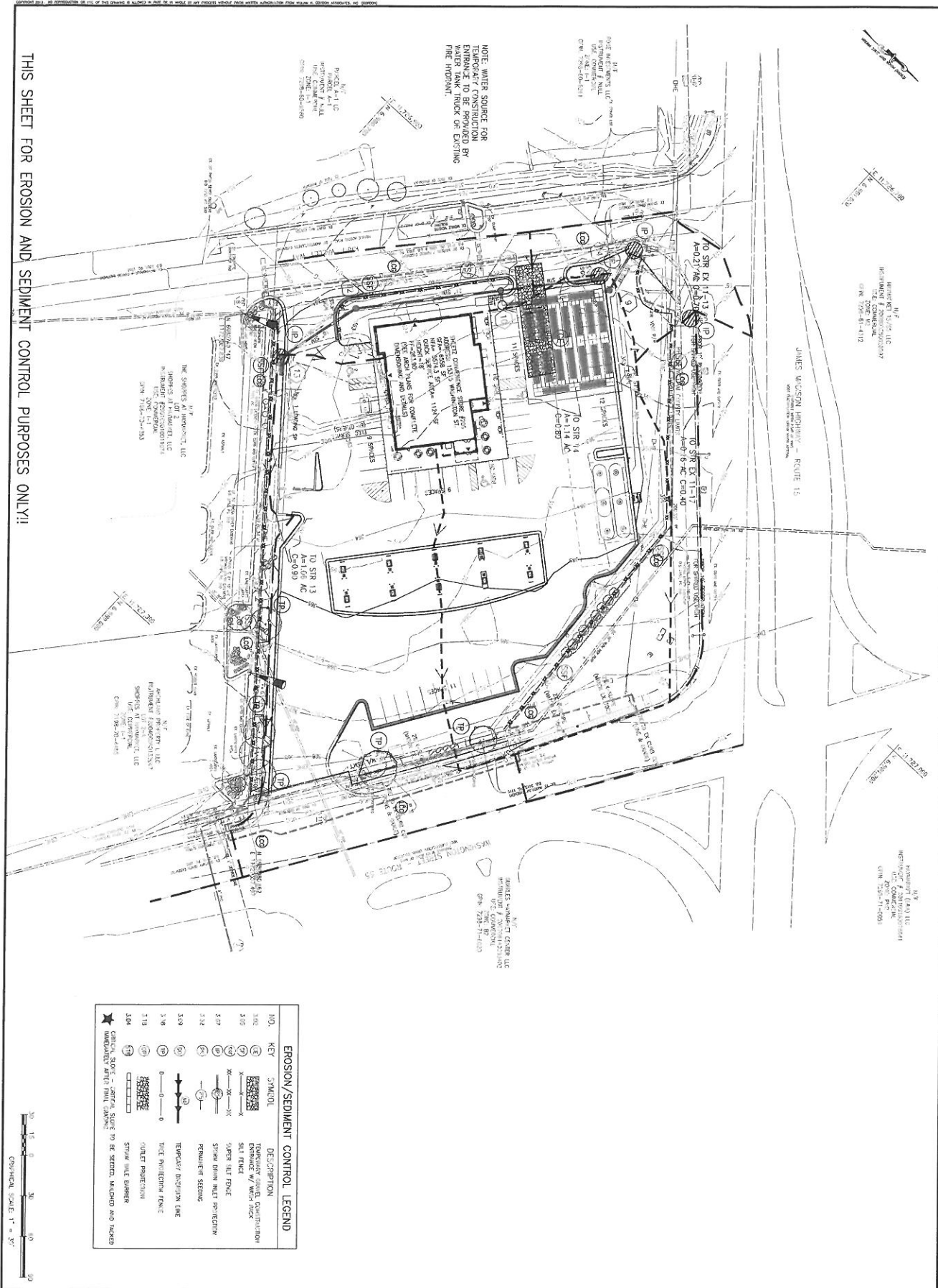
CONJUGATION PETAL

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FINAL SITE PLAN
GAINESVILLE MAGISTERIAL DISTRICT
TOWN OF HAYMARKET, VIRGINIA







EROSION/SEDIMENT CONTROL LEGEND	
NO.	SYMBOL
100	EROSION CONTROL
101	TEMPORARY EROSION CONTROL
102	PERMANENT EROSION CONTROL
103	SEEDING
104	STRIP MULCH
105	TEMPORARY DIVERSION LINE
106	PERMANENT DIVERSION LINE
107	SEEDING
108	STRIP MULCH
109	TEMPORARY DIVERSION LINE
110	PERMANENT DIVERSION LINE
111	SEEDING
112	STRIP MULCH
113	TEMPORARY DIVERSION LINE
114	PERMANENT DIVERSION LINE
115	SEEDING
116	STRIP MULCH
117	TEMPORARY DIVERSION LINE
118	PERMANENT DIVERSION LINE
119	SEEDING
120	STRIP MULCH

Gordon

5938 Dilly Drive
 Chantilly, VA 20151
 Phone: 703-263-1000
 www.gordon-us.com

EROSION AND SEDIMENT CONTROL PLAN PHASE II

HAYMARKET SHEETZ CONVENIENCE STORE

FINAL SITE PLAN
 GAINESVILLE MAGISTERIAL DISTRICT
 TOWN OF HAYMARKET, VIRGINIA

DATE: 12/15/14
 SCALE: 1" = 30'

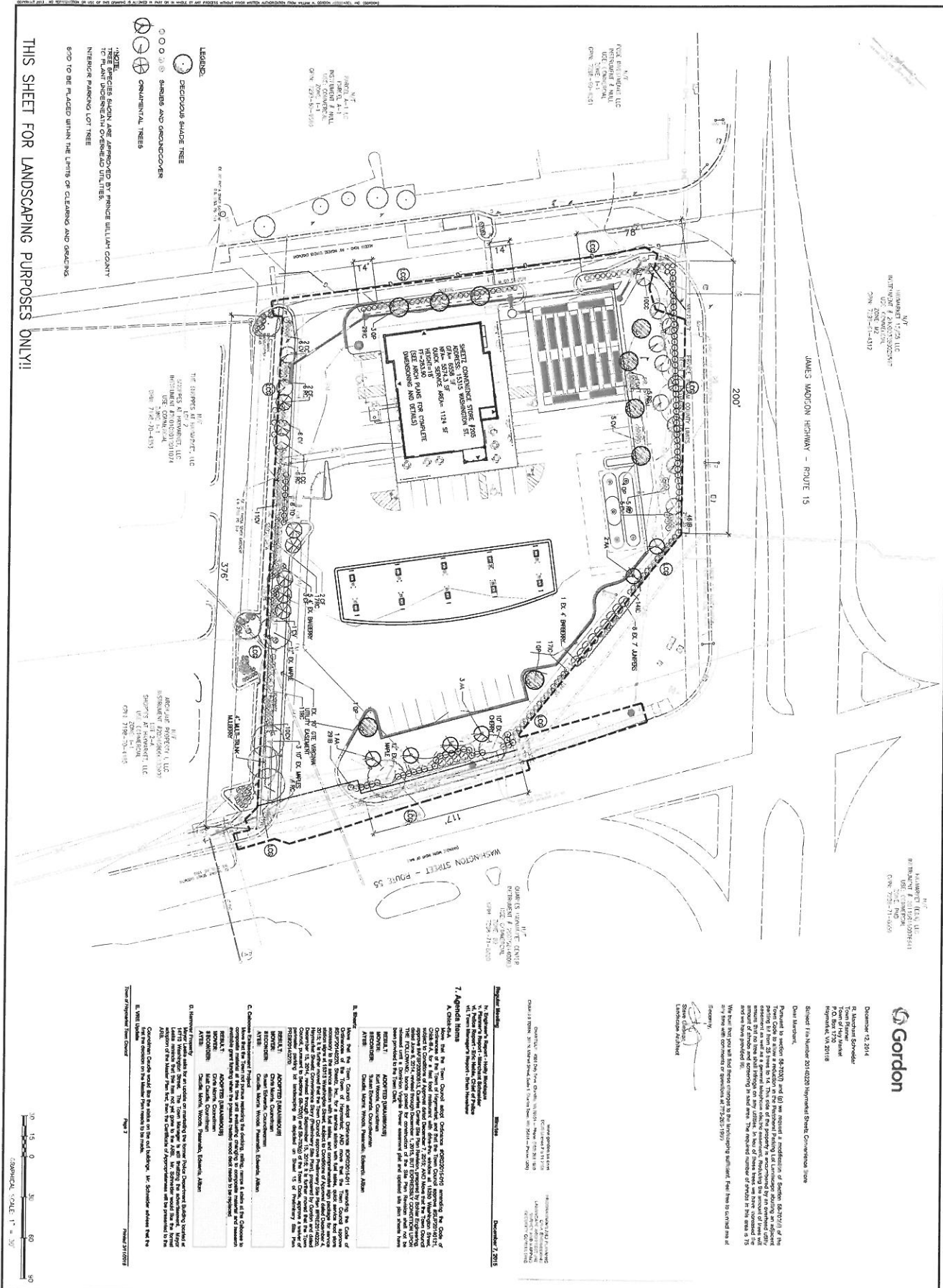


NO.	DATE	DESCRIPTION
1	12/15/14	FINAL

Gordon

5938 Dilly Drive
 Chantilly, VA 20151
 Phone: 703-263-1000
 www.gordon-us.com

PROGRAMMING AND PLANNING
 CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE
 SURVEY AND MAPPING
 SECURITY CONSULTING



Gordon

4501 DAILY DRIVE
CHANTILLY, VA 20151
PHONE: 703-263-1200
WWW.GORDONVA.COM

LANDSCAPE PLAN

HAYMARKET SHEETZ CONVENIENCE STORE

FINAL SITE PLAN
GAINESVILLE MAGISTERIAL DISTRICT
TOWN OF HAYMARKET, VIRGINIA

PROGRAMMING AND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE
SURVEYING AND MAPPING
SECURITY CONSULTING

[illegible]



TOWN OF HAYMARKET TOWN COUNCIL

REGULAR MEETING ~ MINUTES ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Thursday, September 8, 2016

7:00 PM

Council Chambers

A Regular Meeting of the Mayor and Council of the Town of Haymarket, VA, was held this evening in the Board Room, Commencing at 7:00 PM

Mayor David Leake called the meeting to order.

1. Call to Order

Councilman John Cole: Present, Councilman Chris Morris: Present, Vice Mayor Joe Pasanello: Present, Councilwoman Susan Edwards: Present, Councilman Connor Leake: Present, Councilman Steve Aitken: Present, Mayor David Leake: Present.

2. Invocation - Pastor David Monroe, St. Michael's Anglican Church

3. Pledge of Allegiance

4. Citizen's Time

Rebecca Bare - 14977 Cheyenne Way

Ask the Town Council to extend the lease of the Haymarket Food Pantry to December 31st 2017.

Pam Stutz - 6720 Jefferson Street

Along with Jim Kennedy and Reverend David Monroe, speaks as member of the leadership Board of the Haymarket Regional Food Pantry; asks for flexibility in extending lease and asks that emails be read from citizens not present at the meeting.

Patrick Moore - 5952 Amber Ridge Road

Speaking in favor of site plan for the Haymarket Baptist Church to restore its parking area; asks for the Council to vote in favor of approving this plan.

Julie Loy - 6799 Jefferson Street

Presents petitions (130+ hard copy, 100+ online) in support of an extended lease for the Haymarket Food Pantry and asks that emails in support be read as well.

Bob Weir - 6853 St. Paul Drive

Speaks in support of extended lease for the Haymarket Regional Food Pantry; raises financial question about the restroom facilities in the planned community park; raises question about the public hearing on A Dog's Day Out.

Dottie Leonard - 14801 Washington Street

Thanks the current Council and previous Council-members for their service, and for mending some issues that had arisen under the previous administration; suggests meeting at later date to show her suggestions for the façade on the Town Hall.

Joe R. Pasanello - reads statement on behalf Matt Caudle

Matt Caudle (Town resident, Planning Commission Chair, former Council-member) - 14725 Dogwood Park Lane

Supports Mayor Leake and supports the decision not to extend the lease for the Haymarket Food Pantry.

Jennifer Preli - reads two emails that were requested to be read into record:

Mary Lou Scarbrough - 6817 Jefferson Street

Supports extension of lease for the Haymarket Food Pantry.

Minutes Acceptance: Minutes of Sep 8, 2016 7:00 PM (Consent Agenda)

Ed Robinson - 6817 Jefferson Street

Supports extension of lease for the Haymarket Food Pantry.

5. Consent Agenda

A. Minutes Acceptance

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joe Pasanello, Vice Mayor
SECONDER:	Susan Edwards, Councilwoman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

i. Mayor and Council - Work Session - Jul 22, 2016 11:00 AM

Correction on minutes for 5.1.A: reference should have been for morning, rather than evening.

Move to accept the consent agenda with correction stated.

ii. Mayor and Council - Work Session - Jul 23, 2016 7:30 AM

iii. Mayor and Council - Regular Meeting - Aug 1, 2016 7:00 PM

iv. Mayor and Council - Continuation Meeting - Aug 8, 2016 6:00 PM

v. Mayor and Council - Special Meeting - Aug 22, 2016 6:30 PM

B. Department Reports

i. Treasurer's Report - Sherrie Wilson

ii. Engineer's Report - Holly Montague

iii. Planner's Report - Marchant Schneider

iv. Building Official's Report - Joseph Barbeau, Jr.

v. Police Report - Eric Noble, Chief of Police

vi. Director of Business & Community Relations Report - Denise Andrews

C. Meal's Tax Free Weekend - September 17 & 18, 2016 - Denise Andrews

WHEREAS, The Town of Haymarket wishes to encourage a successful weekend for our local restaurants

and vendors associated with Haymarket Day on September 17th, 2016 and throughout the weekend; and

WHEREAS, the Council believes that as we celebrate our history and heritage on one day, we believe

our local restaurants and businesses will benefit from a second day of celebration and our hopeful that

foot traffic generated on Haymarket Day will return to patronize our restaurants and businesses, thus

contributing to the well-being of citizens and the prosperity of Town merchants;

NOW, THEREFORE, in honor of Business Appreciation month the Town Council of Haymarket declares a

Meals Tax Free weekend on September 17th and 18th, 2016.

BE IT ORDAINED by the Council for the Town of Haymarket, Virginia, meeting in regular session this 8th

day of September, 2016, that the Meals Tax is waived solely for the 17th and 18th day of September, 2016.

D. Planning Consultants - Jerry Schiro, Interim Town Manager

6. Agenda Items

A. Blood Cancer Awareness - Lymphoma Awareness Day

Councilman Leake reads the following Proclamation:

September as Blood Cancer Awareness Month and September 15th as Lymphoma Awareness Day

WHEREAS, Lymphoma is the most common form of blood cancer and the third most common childhood cancer; and

Minutes Acceptance: Minutes of Sep 8, 2016 7:00 PM (Consent Agenda)

WHEREAS, More than 81,000 new cases of lymphoma are diagnosed each year in the United States, including 1,900 in the Commonwealth of Virginia, together with the Town of Haymarket; and

WHEREAS, A cure for lymphoma can only be realized through advanced cancer research; and

WHEREAS, Awareness and education are powerful tools in the race to find a cure for lymphoma; and

WHEREAS, The health and vitality of the people of the Commonwealth of Virginia and the Town of Haymarket are significantly enhanced by local efforts to increase communication and education pertaining to lymphoma and blood cancers; and

WHEREAS, In February 2016, the General Assembly designated September, in 2016 and in each succeeding year, Blood Cancer Awareness Month in Virginia and September 15, in 2016 and in each succeeding year, Lymphoma Awareness Day in Virginia to help to raise general awareness of the disease and provide hope to all those affected by a lymphoma diagnosis;

NOW, THEREFORE, BE IT RESOLVED that the Town of Haymarket, Virginia does hereby proclaim September as Blood Cancer Awareness Month and September 15 as Lymphoma Awareness Day, and urges all citizens to support the efforts and activities of the Lymphoma Research Foundation to bring awareness and education in the race to finding a cure for lymphoma during the month of September and throughout the year.

B. Business Appreciation Month - September - Denise Andrews

Councilman Morris reads the following Proclamation:

Business Appreciation Month

WHEREAS, the business community of the Town of Haymarket is crucial to the Town economic health; and

WHEREAS, the revenue generated by the business community allows the Town to provide services that positively affect the quality of life for its residents; and

WHEREAS, the jobs created by the business community support the quality of life that Haymarket residents enjoy; and

WHEREAS, the business community provides valuable support that fosters and encourages public private partnerships through institutions such as the Haymarket-Gainesville Business Association, the Prince William County Chamber of Commerce, the many public and private schools in the community, and other; and

WHEREAS, the Town values its existing business community and commits to making every effort to retain that strong economic base; and

Minutes Acceptance: Minutes of Sep 8, 2016 7:00 PM (Consent Agenda)

WHEREAS, the Town Council recognizes and appreciates the dedication, innovation and entrepreneurial spirit displayed by our local businesses.

NOW, THEREFORE, BE IT PROCLAIMED that Council of the Haymarket, Virginia hereby proclaims

September 2016 as Business Appreciation Month in Haymarket, Virginia.

INTRODUCED AND PASSED by the Council of the Town of Haymarket, Virginia at the Regular Meeting on the Eighth Day of September, 2016.

C. Recognition by the Council

The Town Council recognizes Mr. Acie Montague Watts for 55 years of conducting business with the Town of Haymarket, and as the longest operating business in Town.

D. Haymarket Baptist Church Amended Site Plan - Holly Montague

Move that the Town Council approve the Amended Final Site Plan #2016-001, Haymarket Baptist Church, for the parking lot renovation at 14800 Washington Street as described on the revised site plan dated December 14, 2015.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Chris Morris, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

E. Appointments - Mayor David Leake

Continuation meeting 09/22/2016 at 7 pm.

7. Councilmember Time

- A. Chris Morris
- B. Connor Leake
- C. Susan Edwards
- D. John Cole
- E. Steve Aitken
- F. Joe Pasanello
- G. David Leake

8. Closed Session

A. Enter into Closed Session

The Town Attorney reads the following motion:

Motion that the Council convene in closed session to discuss the following as permitted by Virginia Code Section 2.237-11 A 1

A personnel matter involving Town-appointed officials; and as permitted by Virginia Code Section 2.237-11 A 7

Consultation with legal counsel regarding the impending case of Blue Sky Events in Prince William County Circuit Court and the Genesis Contract dispute, which is a legal matter requiring the advice of Counsel.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Steve Aitken, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken, Leake

B. Certification of the Closed Session

The Town Attorney reads the following motion:

Move that this Council certifies that in the closed session just concluded, nothing was discussed except 1. The matter specifically identified in the motion to convene in closed session, and 2.

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Lawfully permitted to be discussed by the provisions of the Virginia Freedom of Information Act cited in that motion.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: Joe Pasanello, Vice Mayor
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken, Leake

C. Directive

Move to direct the Mayor, the Town Attorney, and the Town Manager to proceed as directed at the end of closed session.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Steve Aitken, Councilman
SECONDER: Susan Edwards, Councilwoman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

D. Interview for the Position of Town Manager

Town Attorney reads the following motion:

Pursuant to Virginia Code Section 2.237-12B

Move for the Town Council to meet within 15 days from today's date to hold closed meetings solely for the purpose of interviewing candidates for Town Manager without further notice to the public as to the date, time, or location of those meetings.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: Steve Aitken, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

9. Adjournment

Minutes Acceptance: Minutes of Sep 8, 2016 7:00 PM (Consent Agenda)

Submitted:

Approved:

Denise Andrews, Interim Clerk

David Leake, Mayor

Minutes Acceptance: Minutes of Sep 8, 2016 7:00 PM (Consent Agenda)



TOWN OF HAYMARKET TOWN COUNCIL

REGULAR MEETING ~ MINUTES ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Monday, December 5, 2016

7:00 PM

Council Chambers

A Regular Meeting of the Mayor and Council of the Town of Haymarket, VA, was held this evening in the Board Room, Commencing at 7:00 PM

Mayor David Leake called the meeting to order.

1. Call to Order

Councilman John Cole: Present, Councilman Chris Morris: Present, Vice Mayor Joe Pasanello: Present, Councilwoman Susan Edwards: Present, Councilman Connor Leake: Present, Councilman Steve Aitken: Present, Mayor David Leake: Present.

2. Invocation - Mr. Bob Marro

This evening's invocation is offered by Mr. Bob Marro, a civilian leader in the All Dulles Area Muslim Society and Government Relations chair. Mr. Marro shares details about the ADAMS Society and its work in the Washington DC area.

3. Pledge of Allegiance - Girl Scouts from the All Dulles Area Muslim Society (ADAMS)

Girl Scouts from the All Dulles Area Muslim Society (ADAMS) they lead the Town in the Pledge of Allegiance this evening.

4. Citizen's Time

Nadia, Sydney, and Robbie - Battlefield High School ILITE Robotics team

Student representatives from the Battlefield High School ILITE (Inspiring Leaders in Technology & Engineering) Robotics team shared details of their organization that is student run, student lead, and mentor guided. The students after school team promote education, programs, and outreach to students who are interested in STEM (Science Technology Engineering & Mathematics) focused activities. The ILITE group is solely funded through sponsorship and donations. The student representatives requested that Council review the provided information for considered sponsorship or donation.

Bob Weir - 6853 St. Paul Drive

Mr. Weir is a long time resident of Haymarket and has many concerns about the current state of the Town's Comprehensive Annual Financial Report. He also request that the Police Officers not park their heavy SUV's atop stamped concrete sidewalks, as they are not designed to hold the weight.

Mr. Weir also request permission to exceed his allotted time in order to update the Council on the Coalition to Protect Prince William County's exchanges with Dominion Virginia Power.

The Council agrees, and Mr. Weir shares that Heritage Hunt has withdrawn its support for the Coalition's position. The Hearing Examiner's Report had been released a few weeks prior, and Mr. Weir's view (along with others) is that the report was not fairly crafted. Mr. Weir does not expect to report any further developments until late January or February.

5. Minutes Acceptance

No minutes for approval at this time.

6. Department Reports

A. Town Planner's Report - Susannah Smith

B. Engineer's Report - Holly Montague

Ms. Montague brings attention to a request from the County for a letter signed by the Mayor in support of a bid application that it has undertaken. The Mayor has sent such a letter before, but

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the County will need an amended letter because the grant has been revised.

Directive from Council for Ms. Montague to proceed with the letter.

C. Business & Community Relations Report - Denise Andrews

Directive from Council for Ms. Andrews to set the TANV (Towns Association of Northern Virginia) meeting date for the February.

D. Police Department Report - Chief Eric Noble

E. Town Manager's Report - Kimberly Murray

F. Treasurer's Report - Kimberly Murray

7. Agenda Items

A. Appointments - Mayor Leake

Mayor Leake opens the floor for nominations for Finance Committee Chair.

Councilman Morris moves to nominate Steve Aitken as Finance Committee Chair.

Mayor Leake calls for a vote for the nomination of Steve Aitken as Finance Committee Chair.

RESULT:	ADOPTED [5 TO 0]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Joe Pasanello, Vice Mayor
AYES:	Cole, Morris, Pasanello, Edwards, Leake
ABSTAIN:	Steve Aitken

B. Appointment of Town Manger & FOIA Officer - Mayor Leake

a. Appoint Town Manager & FOIA Officer -

Mayor Leake opens the floor to formally appoint Kimberly Murray as the Town Manager and FOIA Officer.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	John Cole, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

C. 6710 Madison Street - Site Plan - Holly Montague

Move to approve 6710 Madison Street combined Preliminary and Final Site Plan.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	Chris Morris, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

D. Dominion Virginia Power

Dominion Virginia Power was discussed earlier during citizen's time.

Council directs the Town Attorney to draft a resolution for a later meeting.

E. VRE - Haymarket/Gainesville Extension

No update at this time.

F. Adoption of Meeting Calendar for 2017

Council will hold its January Regular Meeting on Tuesday, January 3rd rather than Monday, January 2nd, because of the New Year's holiday.

Council will revisit the discussion of the regular Town Council Work Sessions some time after February once all staff positions are filled.

G. Resolution #2016-17 - Authorization for Additional Check Signer

Move to approve RES2016-017 authorization for additional check signer.

Minutes Acceptance: Minutes of Dec 5, 2016 7:00 PM (Consent Agenda)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: John Cole, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

H. 2017 Legislative Priorities Discussion

I. Support the Virginia Municipal League's legislative agenda for 2017

Move to support the Virginia Municipal League's legislative agenda for 2017, as presented in the Council's agenda packet.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: John Cole, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

8. Closed Session

A. Enter into Closed Session

Move to enter into closed session as permitted by Va. Code § 2.2-3711 (A)(7)

1. Discussion of assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; specifically employees of Town Administration Department & the Police Department.

B. Certification of Closed Session

Move to certify that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Haymarket Town Council

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: Connor Leake, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

C. Directive

Move to instruct the Town Manager to proceed as directed with regard to interviews for the Chief of Police, and to direct the Town Attorney to proceed as with regard to Genesis.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: Joe Pasanello, Vice Mayor
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

9. Councilmember Time

A. Connor Leake

Councilman Leake thanks Chief Noble for his service.

B. Susan Edwards

C. Steve Aitken

D. Chris Morris

Councilman Morris wishes Town residents a merry Christmas.

E. Joe Pasanello

Vice-Mayor Pasanello wishes Town residents a happy holiday season.

F. John Cole

Councilman Cole shares with Council the opening of Carried to Full Term. He suggest that Town residents stop by to learn more about the home and its work.

G. David Leake

Mayor David Leake shares Councilman Cole's feelings about Carried to Full Term's ribbon-

cutting ceremony - it was very nice.

10. Adjournment

A. Motion to Adjourn

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Connor Leake, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

Minutes Acceptance: Minutes of Dec 5, 2016 7:00 PM (Consent Agenda)

Submitted:

Approved:

Denise Andrews, Interim Clerk

David Leake, Mayor

Minutes Acceptance: Minutes of Dec 5, 2016 7:00 PM (Consent Agenda)



TOWN OF HAYMARKET TOWN COUNCIL

SPECIAL MEETING ~ MINUTES ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Friday, December 30, 2016

9:00 AM

Council Chambers

1. Call to Order

Councilman John Cole: Present, Councilman Chris Morris: Present, Vice Mayor Joe Pasanello: Absent, Councilwoman Susan Edwards: Present, Councilman Connor Leake: Present, Councilman Steve Aitken: Present, Mayor David Leake: Present.

2. Agenda Items

A. Enter into Closed Session

CLOSED SESSION PURSUANT TO 2.2-3711 A1:

Discussion of assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; specifically employees of the Police Department.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	Susan Edwards, Councilwoman
AYES:	Cole, Morris, Edwards, Leake, Aitken, Leake
ABSENT:	Joe Pasanello

B. Certification of the Closed Session

Move to certify that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	Susan Edwards, Councilwoman
AYES:	Cole, Morris, Edwards, Leake, Aitken, Leake
ABSENT:	Joe Pasanello

C. Motion

Move to appoint Kevin Lands as the Chief of Police for the Town of Haymarket effective January 1, 2017 and for pledge of oath of office to take place at the Regular Council meeting January 3, 2017.

Minutes Acceptance: Minutes of Dec 30, 2016 9:00 AM (Consent Agenda)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	Susan Edwards, Councilwoman
AYES:	Cole, Morris, Edwards, Leake, Aitken
ABSENT:	Joe Pasanello

3. Adjournment

A. Motion to Adjourn

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Steve Aitken, Councilman
SECONDER:	Susan Edwards, Councilwoman
AYES:	Cole, Morris, Edwards, Leake, Aitken, Leake
ABSENT:	Joe Pasanello

Submitted:

Approved:

Denise Andrews, Interim Clerk

David Leake, Mayor

Minutes Acceptance: Minutes of Dec 30, 2016 9:00 AM (Consent Agenda)



TOWN OF HAYMARKET TOWN COUNCIL

REGULAR MEETING ~ MINUTES ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Tuesday, January 3, 2017

7:00 PM

Council Chambers

A Regular Meeting of the Mayor and Council of the Town of Haymarket, VA, was held this evening in the Board Room, Commencing at 7:00 PM

Mayor David Leake called the meeting to order.

1. Call to Order

Councilman John Cole: Present, Councilman Chris Morris: Present, Vice Mayor Joe Pasanello: Present, Councilwoman Susan Edwards: Present, Councilman Connor Leake: Present, Councilman Steve Aitken: Present, Mayor David Leake: Present.

2. Invocation - Councilman Morris

3. Pledge of Allegiance

4. Citizen's Time

No public comment.

5. Minutes Acceptance

A. Mayor and Council - Regular Meeting - Oct 3, 2016 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	John Cole, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

B. Mayor and Council - Special Meeting - Oct 28, 2016 6:30 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	John Cole, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

C. Mayor and Council - Regular Meeting - Nov 7, 2016 7:00 PM
Approved with the suggested corrections.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	John Cole, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

D. Mayor and Council - Special Meeting - Nov 22, 2016 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	John Cole, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

E. Mayor and Council - Special Meeting - Dec 9, 2016 10:00 AM

Minutes Acceptance: Minutes of Jan 3, 2017 7:00 PM (Consent Agenda)

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: John Cole, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

F. Mayor and Council - Special Meeting - Dec 12, 2016 2:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: John Cole, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

G. Mayor and Council - Special Meeting - Dec 15, 2016 7:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Susan Edwards, Councilwoman
SECONDER: John Cole, Councilman
AYES: Cole, Morris, Pasanello, Edwards, Leake, Aitken

6. Department Reports

- A. Police Department Report - Chief Kevin Lands
- B. Engineer's Report - Holly Montague
- C. Town Planner's Report - Susannah Smith
- D. Business & Community Relations Report - Denise Andrews
- E. Town Manager's Report - Kimberly Murray

Ms. Murray knows that there will be a VRE update later in the meeting, but she wants to share that she did send a letter to the VRE Board and copied the Prince William County Board of Supervisors, expressing the Town's support of completing the study and full analysis of increased service alternatives.

7. Agenda Items

A. Swearing in & Introduction of Kevin Lands, Chief of Police

Mayor David Leake swears in Kevin Lands as the new Chief of Police.

B. Special Fund Request

Move to approve special funds in the amount of five hundred dollars each to the Tyler Elementary School STEM program, the Ronald Wilson Reagan Middle School archery team, and the Battlefield High School robotics team.

Discussion on the motion:

Councilman Cole asks if Council has identified the line item in the budget where the funds would be pulled from.

Vice-Mayor Pasanello shares that there is a discretionary fund line item under Administration in the budget. Also, Vice-Mayor Pasanello reminds Council that the Town is currently running a \$51,000 deficit and his recommendation is to not distribute any special funds until after Council has gone through a mid-year review.

RESULT: ADOPTED [5 TO 1]
MOVER: Susan Edwards, Councilwoman
SECONDER: Connor Leake, Councilman
AYES: Cole, Morris, Edwards, Leake, Aitken
NAYS: Joe Pasanello

C. Dominion Virginia Power - Update

Vice-Mayor Pasanello shares that he has heard rumors of a rally taking place on this subject.

D. VRE - Gainesville/ Haymarket Extension - Update

Vice Mayor Pasanello updates the Board.

The decision on the VRE Gainesville/Haymarket extension has been pushed back. There should be a meeting sometime in the next few weeks.

E. February 15, 2017 - Town Association of Northern Virginia Meeting

Ms. Murray updates the Board on the TANV meeting.

The Town of Haymarket will host the Town Association of Northern Virginia quarterly meeting on February 15th at an undetermined location and ask Council to put on their calendars.

8. Closed Session

A. Enter Into Closed Session

Closed session for consultation with legal counsel or briefing by staff or consultants about the pending cases of Blue Sky Events, LLC v. Town of Haymarket and Town of Haymarket v. Contrucci and/or briefing by staff or consultants about probable litigation involving a contract for services to the Town as consultation or briefing in open meeting would adversely affect the Town's negotiating or litigating posture, and the Virginia Freedom of Information Act at Virginia Code 2.2-3711, paragraph (A)(7), permits such discussion in closed session.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Joe Pasanello, Vice Mayor
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken, Leake

B. Certification of the Closed Session

Move to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the counsel to proceed as discussed with regard to probable upcoming litigation discussed in Closed Session.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Steve Aitken, Councilman
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken, Leake

9. Councilmember Time

A. John Cole

Councilman Cole has high hopes for the new year, as the Town's new staff and Police Chief settle in to all the recent changes.

B. Susan Edwards

Councilwoman Edwards concurs with Councilman Cole's comments.

C. Steve Aitken

Councilman Aitken thanks Officer O'Neal for his service, and though he is sorry that he was injured on the job, he is glad that the injuries were not more serious. He also echoes Vice-Mayor Pasanello's comments about the Town's finances; he believes that the Town is operating under a deficit, and believes that the difficult choices will need to be made after the mid-year review.

D. Chris Morris

Councilman Morris shares his excitement over the new Town Manager and Chief of Police.

E. Joe Pasanello

Vice-Mayor Pasanello suggests a budget Work Session after the mid-year review. He also suggests that the Council revisit the matter of the Town's Charter once things settle down. Vice-Mayor Pasanello suggests making the Vice-Mayor an annual position, rather than a biennial one, and revisiting whether the Council would like to revisit the election cycle.

F. Connor Leake

Councilman Leake welcomes Chief Lands, and thanks Ms. Murray and Officer O'Neal. He reminds the Council that the diverging diamond is going to open eventually, and that construction on Washington Street is scheduled to begin in the near future. He reminds all Town residents to drive safely.

G. David Leake

10. Adjournment

A. Motion to Adjourn

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	Joe Pasanello, Vice Mayor
AYES:	Cole, Morris, Pasanello, Edwards, Leake, Aitken

Minutes Acceptance: Minutes of Jan 3, 2017 7:00 PM (Consent Agenda)

Submitted:

Approved:

Denise Andrews, Interim Clerk

David Leake, Mayor

Minutes Acceptance: Minutes of Jan 3, 2017 7:00 PM (Consent Agenda)



TOWN OF HAYMARKET TOWN COUNCIL

SPECIAL MEETING ~ MINUTES ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Wednesday, January 25, 2017

8:30 AM

Contemporary Music Center

1. Call to Order

Councilman John Cole: Absent, Councilman Chris Morris: Absent, Vice Mayor Joe Pasanello: Present, Councilwoman Susan Edwards: Absent, Councilman Connor Leake: Present, Councilman Steve Aitken: Absent, Mayor David Leake: Present.

2. Agenda Items

A gathering of the Town Council took place at Contemporary Music Center, 4410 Costello Way, Haymarket, VA 20169 for the quarterly Business Roundtable. This gathering was an opportunity for business owners and town residents to meet the new Town Manager, Kimberly Murray, and new Police Chief, Kevin Lands to answer questions, listen to ideas and address any challenges that may face business owners and citizens.

There were no official public matters voted on.

Minutes Acceptance: Minutes of Jan 25, 2017 8:30 AM (Consent Agenda)

Submitted:

Approved:

Denise Andrews, Interim Clerk

David Leake, Mayor

Minutes Acceptance: Minutes of Jan 25, 2017 8:30 AM (Consent Agenda)



TOWN OF HAYMARKET TOWN COUNCIL

SPECIAL MEETING ~ MINUTES ~

Denise Andrews, Interim Clerk
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Wednesday, February 1, 2017

5:30 PM

Council Chambers

1. Call to Order

Councilman John Cole: Present, Councilman Chris Morris: Absent, Vice Mayor Joe Pasanello: Absent, Councilwoman Susan Edwards: Present, Councilman Connor Leake: Present, Councilman Steve Aitken: Present, Mayor David Leake: Absent.

2. Agenda Items

A. Enter into Closed Session

CLOSED SESSION PURSUANT TO 2.2-3711 A1:

Discussion of assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; specifically employees of the Town.

Consultation with legal counsel or briefing by staff about probable litigation involving a contract for services to the Town as consultation or briefing in open meeting would adversely affect the Town's negotiating or litigating posture, and the Virginia Freedom of Information Act at Virginia Code 2.2-3711 paragraph (A)(7), permits such discussion in closed session.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	Susan Edwards, Councilwoman
AYES:	John Cole, Susan Edwards, Connor Leake, Steve Aitken
ABSENT:	Chris Morris, Joe Pasanello

B. Certification of the Closed Session

Move to certify that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	Susan Edwards, Councilwoman
AYES:	John Cole, Susan Edwards, Connor Leake, Steve Aitken
ABSENT:	Chris Morris, Joe Pasanello

C. Directive

Move to appoint Roberto Gonzalez as the Interim Treasurer for the Town of Haymarket effective February 2, 2017.

Minutes Acceptance: Minutes of Feb 1, 2017 5:30 PM (Consent Agenda)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Connor Leake, Councilman
SECONDER:	John Cole, Councilman
AYES:	John Cole, Susan Edwards, Connor Leake, Steve Aitken
ABSENT:	Chris Morris, Joe Pasanello

3. Adjournment

A. Motion to Adjourn

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan Edwards, Councilwoman
SECONDER:	John Cole, Councilman
AYES:	John Cole, Susan Edwards, Connor Leake, Steve Aitken
ABSENT:	Chris Morris, Joe Pasanello

Minutes Acceptance: Minutes of Feb 1, 2017 5:30 PM (Consent Agenda)

Submitted:

Approved:

Denise Andrews, Interim Clerk

David Leake, Mayor

Minutes Acceptance: Minutes of Feb 1, 2017 5:30 PM (Consent Agenda)



Permit No.	Project Name	Permit Address	Permit Type	Permit Status	Permit Issue Date	Permit Close Date	R/C	Project Status	Project End Goal	Comments
B20160004 Primary Permit	Ice Plex	15155 Washington St	Electrical - Sub Permit	Active	12/17/15	extended to 12/17/17	C	Rink Installation Phase	Addition to accommodate a second ice rink and services.	Inspected the installation of Ceiling Light devices and wiring in advance of rink installation.
B20170001	Church Awning	14800 Washington St	Building	Active	1/27/17	1/17/18	C	Ready for Final Inspection	Awning Installation on Commercial Structure	Final inspection for the installation of lighted awning.
Pending	QBE Addition	14550 Washington St	Building	Pending	TBD	TBD	C	Proposed Project Meeting	Two Additional Stories above existing structure	Met with property owner to discuss the proposed additional two stories to be constructed above the existing building and the potential phasing of such construction.
B20160004 Primary Permit	Ice Plex	15155 Washington St	Plumbing - Sub Permit	Pending	12/17/15	extended to 12/17/17	C	Meeting with Rink Installers	Addition to accommodate a second ice rink and services.	Met with Rink Installers to go over inspection requirements and expectations.

Summary:

Old Fire Station Update: An exterior inspection at the Old Fire Station reveals a pervious structure that is secured from neither vandals nor weather. A violation letter was sent regarding both current use and conditions of this property. At a recent meeting with the ownership and other Town Staff, this Official agreed to produce a letter stating the current condition of the property. While the buildings on this site are in need of repair, neither seems to rise to the level that is claimed by the owner's team, whose desire is to raze both structures to prepare this site for re-development. It is the opinion of this Official that these structures present an opportunity for renovation, and that this option should not be set aside without due consideration to re-use rather than removal. The Letter once completed will be shared with the council.

Engineer's Report - 12/28/16 thru 1/26/17

6.B.a

Task	Assigned To	Date Task Started	Last worked on	Action Needed By	Estimated End Date	Actual End Date	Comments
Active Projects							
QBE Preliminary Plan	Holly/ Susannah	1/20/2017	N/A	Susannah/ Holly	N/A		1st Submission received. Completeness review will be completed by 2/3. Schedule to be determined once application deemed complete.
Villages of Haymarket Ph II As-Built Survey	Holly	1/5/2017	1/25/2017	Applicant	N/A		Applicant has begun coordination efforts in order to submit As-Built Survey.
Sheetz Final Site Plan	Holly/ Susannah	6/29/2016	1/24/2017	Susannah/ PC	2/6/2017		1st Submission received complete 6/29/2016. All comments returned. 2nd Submission received (complete) 11/16/2016. All comments addressed, Susannah putting on Feb PC agenda. Holly continuing to work with applicant helping them obtain VDOT & VSMP Permits.
Dog's Day Out Preliminary Site Plan	Holly/ Susannah	12/13/2016	1/18/2017	Applicant	3/6/2017		Comments sent to applicant. Applicant put in writing a request to move application to March PC meeting in order to address comments.
Haymarket Town Center Final Site Plan	Holly/ Susannah	9/8/2016	1/23/2017	RDA	4/30/2017		RDA working on Final Site Plan. Additional subsurface investigation complete.
Pedestrian Improvements Project	Holly	7/14/2014	1/23/2017	RDA/ Utility Companies	6/30/2017		Utility relocations are authorized, waiting for utility companies to begin work. RDA working on final construction plans. Drainage & entrance revisions required due to further development of Town Center Final Site Plan design.
Fairgrounds GDP	Susannah/ Holly	N/A	6/6/2016	Applicant	N/A		1st and 2nd Submission comments returned. Awaiting next submittal by applicant.
Sherwood Forest Bond Release	Holly	N/A	1/26/2017	Applicant	N/A		Landscaping and E&S Bond released. Applicant must finish Street Acceptance Process with VDOT before Holly brings Town Council Resolution for Street Acceptance. After this is complete, the Performance Bond will be brought to Council to be released.

Attachment: Feb 2017 TC Engineer's Report (3056 : Town Engineer's Report - Holly Montague)

Engineer's Report - 12/28/16 thru 1/26/17

Task	Assigned To	Date Task Started	Last worked on	Action Needed By	Estimated End Date	Actual End Date	Comments
Alexandra's Keep Landscaping, E&S and Performance Bond Release	Holly	N/A	1/10/2017	Applicant	N/A		Applicant must re-submit As-Built survey for review. Applicant must have Blieght Drive street lights put on meter to turn over to Town for ownership/maintenance. Alexandra's Keep and QBE coordinating in order to share a meter.
Advantage Landscaping RPA Restoration Plan	Holly	6/1/2016	8/8/2016	Applicant	N/A		1st Submission received 6/1/2016 Comments returned. Awaiting next submittal by applicant.
Eagle Scout Project Coordination to stencil storm drains	Susannah/ Holly	6/22/2016	1/5/2017	Eagle Scout/ARB/ Susannah	N/A		Eagle Scout provided graphic of proposed stencil. Will be shown to ARB in Feb. for comment.
Stamped Asphalt Crosswalk Estimate and RFP	Holly	10/15/2016	12/28/2016	Holly	1/31/2017		Will have estimate by 12/31/2016 and RFP by 1/31/2017.
NOVA Hazard Mitigation Plan	Holly	6/28/2016	1/10/2017	Localities/ Holly	3/31/2017		NOVA Hazard Mitigation Plan Update led by Fairfax County. FEMA review completed, comments returned. Minor additional efforts required. When conditional approval from FEMA received (Feb or March), a resolution for adoption will be brought to Town Council for adoption
VDOT I-66/Rte 15 Coordination	Holly	N/A	1/26/2017	VDOT	8/31/2017		Web updates about lane closures for following week done every Monday. See additional notes below.
Completed Projects							
Sight Distance at Jefferson St/Payne Lane	Holly	7/27/2016	11/23/2016	VDOT	N/A	11/23/2016	
6710 Madison St (Haymarket Charitable Lodge) Prelim & Final Site Plan	Holly	5/18/2015	11/9/2016	Town Council	12/5/2016	12/5/2016	PC recommended approval 11/9/16. TC approved 12/5/2016. Could be futher engineer coordination during construction.

Task	Assigned To	Date Task Started	Last worked on	Action Needed By	Estimated End Date	Actual End Date	Comments
Inactive Projects							
Lincoln Court Grading Plan	Holly/Susannah	N/A	8/6/2015	Applicant	N/A		1st Submission comments returned. Applicant has chosen not to resubmit.
Robinson's Paradise Rezoning & Preliminary Plan	Holly/Susannah	N/A	7/18/2015	Applicant	N/A		Preliminary Plan recommended for approval by Holly & Marchant. PC did not approve and asked for changes. Applicant has chosen not to resubmit.
Haymarket Village Square (Payne Lane) Prelim Plan	Holly/Susannah	N/A	12/17/2014	Applicant	N/A		1st Submission comments returned. Applicant has chosen not to resubmit.

Quiet Zone and Prince William County

- James Davenport at PWC checked around his office to see if there have been noise complaints regarding the railroad. They only have one complaint. Due to lack of complaints and potential cost (upwards of \$300,000 at each crossing) to upgrade gates, he does not believe that he can get PWC support to pursue efforts for a Quiet Zone.
- Mr. Davenport also reached out to MWCOG to see if they knew about any grant opportunities. MWCOG said based on their knowledge and their quick search, they were not aware of grants to fund the Quiet Zone designation process or of any grants for the installation of "supplemental safety measures" or "wayside horns." However, MWCOG did make a point to that does not mean there are not any, just that they are not aware and did not turn up any in their quick search.

I-66/Rte 15 Interchange - Diverging Diamond

- Due to inclement weather, the opening the Diverging Diamond configuration has been postponed many times and is scheduled to open the weekend of Jan 27
- I have contacted VDOT regarding concerns about the lack of pedestrian access leading up to and crossing Rte 15. Awaiting response from VDOT.
- The contractor has confirmed that relocating the streetlights in front of Quarles Center (CVS, Fauquier Bank and Chick-Fil-A) is part of the scope of their project.

HAYMARKET POLICE

DEPARTMENT

To: Kimberly Murrey, Mayor Leake and Council Members
 From: Chief Lands
 Date: 1-25-2017
 Subject: Monthly Report for January 2017

Felony Arrests	0	None
Misdemeanor Arrests	3	DUI, Wanted Suspect
Protective Orders	0	None
Medical Transports	1	Prince William
Calls for Service	275	Various
Traffic Summons	83	Speeding, Suspended, Reckless Driving, Equipment Violations
Traffic Accidents	3	No Injuries

VCIN Training
 VDOT Detail
 Business Roundtable
 New Business Check Cards
 New Daily Rundowns
 St Paul's Church Email

Sincerely,

Kevin Lands
 Chief of Police

Attachment: 02-Police Department Report (3051 : Police Department Report - Chief Lands)

TASK LIST - 12/26/2016 thru 1/30/2017

Task	Assigned To	Date Task Started	Last worked on	Action Needed By	Anticipated End Date	Actual End Date	Comments
Architectural Review Board							
#2016-033 (Foster's Grille) Signage and Lighting	Susannah	11/10/2016	11/28/2016	Applicant	1/19/2017		Partially approved by ARB at special meeting 11/28/2016. Staff has not heard back from applicant pending ZA determination requested 12/19; 30 days for appeal have passed with no action. NOV next step.
#2016-034 (Signature Companies) Building façade	Susannah	11/1/2016	1/9/2017	n/a		1/9/2017	Approved, Staff notified applicant of subsequent permit requirements
#2016-035 (Chris Dixon)	Incomplete	12/5/2016	12/19/2016	Applicant			Fence proposed on residential property.
#2016-036 (St Pauls Episcopal Church)	Susannah	11/8/2016	1/9/2017	n/a		1/9/2017	Approved, Staff notified applicant of subsequent permit requirements
#2016-037 (Z Companies)	Incomplete	12/19/2016	12/19/2016	Applicant			Demolition of two buildings in Town Core. Met w/ applicant and design team, they need to address missing items.
#2016-038 (Dog's Day Out)	ARB	1/5/2017		Applicant	2/15/2017		ARB tabled pending resubmission of revised designs & specifications prior to next meeting
#2017-001 (Haymarket Iceplex)	Susannah	1/5/2017		n/a		1/23/2017	Approved, Staff notified applicant of subsequent permit requirements
#2017-002 (Haymarket Baptist Church)	ARB	1/9/2017	1/18/2017	ARB	2/15/2017		Proposed canopies submitted for February meeting
Board of Zoning Appeals							
Appeal of Notice of Violation (#BZA-2017-004)	Susannah	1/6/2017	1/18/2017	Staff, Town Attorney	3/9/2017		Met with applicant's attorneys to review case and site. BZA will hear Appeal at their regular meeting in March.
Active Board Recruitment	BZA, Susannah	11/1/2016	1/9/2017	Town Council			BZA met for information items, elected officers and adopted 2017 calendar. Need appointees for 2 vacancies.
Variance: QBE	Incomplete	1/30/2017	1/30/2017	Staff, BZA			Applicant is still submitting materials.
Planning Commission							
Update: Zoning & Subdivision Ordinance	Planning Commission	9/26/2016	12/19/2016	Planning Commission, Consultant	3/1/2017		Under review by Planning Commission, Staff. Consultant will present 2/1/2017.
Site Plan: Sheetz	Susannah, Planning Commission	11/16/2016	1/25/2017	Planning Commission, Town Council	2/1/2017		Final Site Plan ready to approve. Planning Commission 2/1/2017, TC to approve bond 2/6/2017
Site Plan: A Dog's Day Out	Susannah, Holly, Planning Commission	11/21/2016	11/21/2016	Applicant	3/1/2017		Preliminary Site Plan 1st review completed by staff and agencies. Applicant asked to defer to March meeting.
Prince William County							
One-Mile Review: Carter's Mill	Susannah, Holly	10/5/2016	1/18/2017	Staff	12/28/2016		6th submission under review by Staff to provide comments to PWC planning.
One-Mile Review: John Marshall Commons	Holly, Susannah, Planning Commission	11/1/2016	1/25/2017	Applicant; PWC Staff	2/28/2017		Staff has provided comments to PWC planning. Applicant wants to meet with us to go over our comments.
One-Mile Review: Heathcote Tire & Auto SUP	Holly, Susannah, Planning Commission	12/22/2016	1/30/2017	Staff	2/28/2017		1st submission under review by Staff to provide comments to PWC planning.
Staff							
Process Review: Forms, Fees, Submittals	Susannah, Kimberly	9/26/2016	1/30/2017	Staff	6/1/2017		In process. Fees to reflect actual costs including E&S, Stormwater, etc. Drafting memo to Kim with results.
SUP #2017-003: K&K Sarees	Staff	1/5/2017	n/a	n/a			Incomplete submittal. Met with applicant who will wait to see if zoning ordinance will include home occupations as a use-by-right.
Site Plan: QBE Improvements	Holly, Susannah, Planning Commission	1/20/2017	1/30/2017	Staff; Applicant	2/3/2017		Submittal is Incomplete. Staff preparing list of missing requirements.

Submitted by Susannah B. Smith, CFM, ASLA
Town Planner / Zoning Administrator

TASK LIST - 12/26/2016 thru 1/30/2017

Task	Assigned To	Date Task Started	Last worked on	Action Needed By	Anticipated End Date	Actual End Date	Comments
Signage issues on Industrial Properties	Susannah	12/15/2016	1/9/2017	Staff			To address a signage plan and individual signs on properties affected by VDOT work on Hwy 15
Winterham & Iceplex: Shared parking, Subdivision Plan & Major Site Plan revisions	Susannah	11/30/2016	1/25/2017	Staff; Town Attorney			Met with property owner reps, surveyor, continued research, emails with town attorney, and discussed issues with property owner's representative. Sent all information to property owners.
Applications: Modifications to Cell Tower @ 15175 Washington St	Holly, Susannah, Joe	12/2/2016	1/18/2017	Staff			Completed.
Discussion with PWC Transportation regarding site visibility at Payne & Jefferson intersection	Susannah, Holly	1/9/2017	1/18/2017	none			Need to incorporate into comments for any development at this intersection.

Business & Community Relations Report 01/30/2016 – 02/28/2017

Serve Our Willing Warriors

On Saturday, February 18th from 6:00 pm to 11:00pm at Regency at Dominion Valley. SOWW will have one of their biggest annual fundraisers, "Monte Carlo Night."

This fundraiser raises money for the Warrior Retreat at Bull Run and sponsoring stays for wounded, ill & injured service members and their families. The event will consist of an evening of casino games, gaming tables and fundraising activities.

For more information or if you would like to volunteer for this event please e-mail volunteer@willingwarriors.org

2017 Town Sponsored Events

Earth Day – Saturday, April 22nd
Health & Fitness Day – Saturday, June 10th
National Night Out – Tuesday, August 1st
Haymarket Day – Saturday, September 16th
Haymarket Holiday Celebration – Saturday, December 2nd

Museum Plans in 2017

The volunteer staff will be meeting in mid February to prepare and plan for the 2017 season. The 2017 Summer/Fall internship letter will be going out to most of the local and regional colleges and universities in the area.

Town Business Roundtable

On Wednesday, January 25th the Town had its first Business Roundtable meeting of the New Year.

The Business Roundtable gives both the business and residential community the opportunity to meet with other leaders in the business community.

In addition, Town Manager, Kimberly Murray, Police Chief, Kevin Lands, and Town Planner, Susannah Smith was there to answer questions and give insight on the growth and changes happening in the Town.

There were 24 business owners in attendance with 3 first time attendees and several questions were raised such as:

- Accessibility to updated information for the business owner
- The blight on Payne Lane
- What is on the future horizon for the Town to promote the current business'

The next Business Roundtable will take place in April, location TBD.

TANV Meeting

On Wednesday, February 15th from 11:30 am to 2:00 pm, the Town of Haymarket will host the local Town Association of Northern Virginia quarterly meeting.

The meeting will be held at Giuseppe's Italian Restaurant

Media Coverage

- 01/02/2017 Gainesville Times – Introduction of Kevin Lands as new Chief of Police for the Town of Haymarket
- 01/06/2017 Bull Run Observer – Diverging Diamond Interchange
- 02/01/2017 Haymarket Lifestyle – *A Tale of Three Houses*
- 02/03/2017 Bull Run Observer – Launching of the HGBA App.



Town of Haymarket
15000 Washington Street, #100
Haymarket, VA 20169
703-753-2600

Kimberly L. Murray, CECd, AICP
TOWN MANAGER

**TOWN MANAGER'S REPORT
COUNCIL REGULAR MEETING
FEBRUARY 6, 2017**

Below is a summary of activities and updates for Council as of January 31, 2017.

Meetings and Highlights:

- Roberto Gonzalez joined our team January 10, 2017 as our new Treasurer. He is from our wider Haymarket community and has over a decade of accounting experience in the private sector including project management and controller duties for construction related companies. He is interested in broadening his knowledge in municipal finances and is assisting with the preparation of the FY2018 budget. He is well respected by his peers and he is looking forward to a new challenge that this position will offer him. We are excited to have him on board.
- We will host the next quarterly Town Association of Northern Virginia (TANV) meeting on February 15, 2017. We are coordinating with the Town of Leesburg. On the agenda will be guest speaker Beth Erickson, President and CEO, Visit Loudoun and an update on legislative matters.
- Vice Mayor Pasanello, Councilor Edwards, Danielle Kijewski and I attended VML Day at the Capitol January 25, 2017 and met with Senator Black and other municipal officials. We are watching several bills that could impact our businesses and residents involving cell tower permitting, BPOL funding, and local law enforcement state funds.
- Attended the monthly meeting at the Northern Virginia Regional Commission and met with the NOVA City Managers and County Administrators to discuss the upcoming budget planning efforts. It was a great opportunity to meet them all and hear how they approach their planning and challenges with the annual budget.
- No FOIA requests received this month.

Administration and Personnel:

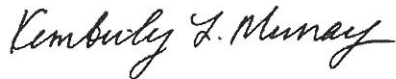
- Met several times with our new Chief of Police Kevin Lands who was appointed January 1, 2017, discussing services the Town provides and ways to coordinate more effectively to serve our citizens.
- Continuing to work with staff on improving office efficiencies and best practices.
- We leased two offices to LF Security Solutions out of Gainesville this month. We still have the office space above the Copper Cricket for lease and another large office space on the second floor of Town Hall.
- Denise Andrews and I teleconferenced with our website consultant, A-Ha Consulting to discuss the design of the new municipal website. We are excited by the modern clean

look of the sample sites and the ability to showcase our town. We plan to have a specific page for Visitors and businesses that will also showcase our Museum as well as more detailed content about our current Town services.

Finance:

- Work on the proposed FY2018 budget is underway. The FY2018 Budget Presentation meeting is planned for March 20, 2017 with a tentative adoption date of May 15, 2017. We will schedule additional Town Council work session meetings in April.
- Finance Committee met January 18, 2017. Steve Mulroy from VML/VACo Finance Fixed Rate Loan Program attended to review in more detail their program and meet with staff. The Credit Benchmark Report they prepared in June for Town Council was updated with the recently completed FY2016 Financial Statement and still shows the Town in a good lending position to incur debt to complete the Town Center project. The Committee conducted a mid-year review and at this time do not recommend any mid-year corrections. Meals tax revenues are slightly above expectations, expenses by department are on target, and additional revenues like the Business License taxes will come in later this spring so we expect to see a deficit at this time.
- Attached are draft monthly financial reports ending December 31, 2016.

Respectfully Submitted,



Kimberly L. Murray, CEcD, AICP
Town Manager

Town of Haymarket
Statement of Net Position
As of December 31, 2016

	Dec 31, 16
ASSETS	
Current Assets	
Checking/Savings	
10000 · Cash & Cash Equivalents	959,085.93
11000 · CD's & Money Market Funds	325,691.61
11010 · Virginia Investment Pool	304,556.93
Total Checking/Savings	1,589,334.47
Accounts Receivable	
12000 · Accounts Receivable	113,703.71
12010 · A/R Permits	1,044.59
12020 · Delinquent Real Estate	3,230.48
12021 · Taxes Receivable - RE 2016	32,467.40
Total Accounts Receivable	150,446.18
Other Current Assets	
11499 · Undeposited Funds	-32,987.18
12012 · Local Accounts Receivable-Other	340.59
12099 · Allowance for Doubtful Accounts	-97,931.22
Total Other Current Assets	-130,577.81
Total Current Assets	1,609,202.84
Fixed Assets	
12500 · General Property	4,384,066.65
12600 · Rental Property	1,460,194.77
Total Fixed Assets	5,844,261.42
Other Assets	
19000 · Net Pension Asset	81,563.00
19100 · Deferred Outflow - Pension Cont	36,959.45
Total Other Assets	118,522.45
TOTAL ASSETS	<u>7,571,986.71</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
20000 · Accounts Payable	48,631.69
Total Accounts Payable	48,631.69
Credit Cards	
20040 · Town Credit Card	540.07
Total Credit Cards	540.07
Other Current Liabilities	
20030 · VA Dept of Housing & Comm. Dev.	150.20
20096 · Deferred Revenue - Other	10,000.00
20500 · Sales Tax Payable	18.72
21000 · Payroll Liabilities	14,703.66
22000 · Security Deposits	18,540.25
22010 · Escrow Deposits	278,371.73
Total Other Current Liabilities	321,784.56
Total Current Liabilities	370,956.32
Long Term Liabilities	
20080 · Accrued Interest Payable	13,878.48
23000 · Accrued Leave	26,391.15
25000 · General Obligation Bonds	1,378,900.00
29100 · Deferred Inflow - Pension Msmnt	31,292.00
Total Long Term Liabilities	1,450,461.63
Total Liabilities	1,821,417.95

Attachment: 2-6-17 TM rpt packet (3060 : Town Manager's/Treasurer's Reports - Kimberly Murray)

Town of Haymarket
Statement of Net Position
As of December 31, 2016

	<u>Dec 31, 16</u>
Equity	
34000 · Net Pension Activity Offset	87,230.45
30000 · Unrestricted Net Assets	1,313,631.23
31000 · Restricted Net Assets	6,000.00
32000 · Investment in Capital Assets	5,844,261.42
33000 · Amt Long Term Obligations	-1,419,169.63
Net Income	-81,384.71
Total Equity	<u>5,750,568.76</u>
TOTAL LIABILITIES & EQUITY	<u><u>7,571,986.71</u></u>

Town of Haymarket
Statement of Revenue & Expenditures for Month
December 2016

	<u>Dec 16</u>
Ordinary Income/Expense	
Income	
3110 · GENERAL PROPERTY TAXES	-480.21
3120 · OTHER LOCAL TAXES	89,949.35
3130 · PERMITS,FEES & LICENESSES	2,130.00
3140 · FINES & FORFEITURES	6,016.98
3150 · REVENUE - USE OF MONEY	705.87
3151 · RENTAL (USE OF PROPERTY)	11,577.46
3165 · REVENUE - TOWN EVENTS	1,064.00
3180 · MISCELLANEOUS	108.00
32 · REVENUE FROM COMMONWEALTH	18,251.82
Total Income	<u>129,323.27</u>
Gross Profit	129,323.27
Expense	
01 · ADMINISTRATION	40,892.80
03 · PUBLIC SAFETY	80,249.94
04 · PUBLIC WORKS	12,599.45
07 · PARKS, REC & CULTURAL	4,653.55
08 · COMMUNITY DEVELOPMENT	10,275.03
94105 · PERSONNEL	934.97
94106 · TOWN CENTER MASTER PLAN	8,990.49
Total Expense	<u>158,596.23</u>
Net Ordinary Income	<u>-29,272.96</u>
Net Income	<u><u>-29,272.96</u></u>

Attachment: 2-6-17 TM rpt packet (3060 : Town Manager's/Treasurer's Reports - Kimberly Murray)

02/02/17

Town of Haymarket
Revenue & Expenditures Actual To-Date vs Annual Budget
 July through December 2016

	Jul - Dec 16	Budget	% of Budget
Ordinary Income/Expense			
Income			
3110 · GENERAL PROPERTY TAXES	296,799.30	302,000.00	98.3%
3120 · OTHER LOCAL TAXES	464,142.63	1,275,000.00	36.4%
3130 · PERMITS, FEES & LICENSES	8,503.60	48,700.00	17.5%
3140 · FINES & FORFEITURES	30,935.80	50,000.00	61.9%
3150 · REVENUE - USE OF MONEY	4,184.44	10,000.00	41.8%
3151 · RENTAL (USE OF PROPERTY)	72,790.59	189,200.00	38.5%
3160 · CHARGES FOR SERVICES	2,600.00		
3165 · REVENUE - TOWN EVENTS	69,611.82	40,000.00	174.0%
3180 · MISCELLANEOUS	2,549.24	1,900.00	134.2%
32 · REVENUE FROM COMMONWEALTH	105,432.28	183,500.00	57.5%
33 · REVENUE FROM FEDERAL GOVERNMENT	60,760.43	365,000.00	16.6%
35 · TRANSFER FROM GENERAL FUND	0.00	273,360.00	0.0%
Total Income	1,118,310.13	2,738,660.00	40.8%
Gross Profit	1,118,310.13	2,738,660.00	40.8%
Expense			
01 · ADMINISTRATION	373,917.09	712,350.00	52.5%
03 · PUBLIC SAFETY	386,995.42	775,900.00	49.9%
04 · PUBLIC WORKS	99,843.15	212,000.00	47.1%
07 · PARKS, REC & CULTURAL	35,973.17	70,650.00	50.9%
08 · COMMUNITY DEVELOPMENT	22,537.57	64,600.00	34.9%
09 · NON-DEPARTMENTAL	171,654.17	186,440.00	92.1%
94101 · CABOOSE ENHANCEMENT PROJECT	0.00	15,000.00	0.0%
94102 · HARROVER MASTER PLAN	750.00	150,000.00	0.5%
94103 · PEDESTRIAN IMPROVEMENT PROJECT	58,620.00	350,000.00	16.7%
94105 · PERSONNEL	1,450.85		
94106 · TOWN CENTER MASTER PLAN	47,953.42	123,360.00	38.9%
9610 · General Reserve	0.00	30,000.00	0.0%
94201 · Transfer to Capital Imp. Proj.	0.00	273,360.00	0.0%
Total Expense	1,199,694.84	2,963,660.00	40.5%
Net Ordinary Income	-81,384.71	-225,000.00	36.2%
Other Income/Expense			
Other Income			
99000 · Use of Carry-over surplus	0.00	225,000.00	0.0%
Total Other Income	0.00	225,000.00	0.0%
Net Other Income	0.00	225,000.00	0.0%
Net Income	-81,384.71	0.00	100.0%

Attachment: 2-6-17 TM rpt packet (3060 : Town Manager's/Treasurer's Reports - Kimberly Murray)



Town of Haymarket
15000 Washington Street, #100
Haymarket, VA 20169
703-753-2600

Kimberly L. Murray, CEcD, AICP
TOWN MANAGER

MEMORANDUM

TO: Honorable Mayor and Town Council
FROM: Kimberly L. Murray, Town Manager
DATE: February 6, 2017
SUBJECT: Resolution to Adopt a 457 Deferred Compensation Plan for the Employees of the Town of Haymarket to be administered by the ICMA Retirement Corporation

The Town has an opportunity to offer a 457 Deferred Compensation Plan to its Employees to complement our participation in the Virginia Retirement System (VRS) program as an additional benefit option to supplement their retirement savings. ICMA -RC offers personalized service and online resources to help public sector participants throughout their working and retirement years. They have also partnered with the VRS for new employees with the VRS Hybrid Program.

As we look to continue to attract and retain professional staff, the 457 Deferred Compensation Plan, at no cost to the Town is a great benefit to supplement the VRS retirement program.

STAFF RECOMMENDATION:

Council may wish to adopt the attached resolution in support of offering a 457 Deferred Compensation Plan administered by the ICMA Retirement Company as an additional benefit for all Town employees.

SUGGESTED RESOLUTION FOR A LEGISLATIVE BODY RELATING TO A 457 DEFERRED COMPENSATION PLAN

Account Number 30- 7441Name of Employer: Town of HaymarketState: VirginiaTitle of Program Coordinator: Kimberly Murray
(see definition below for duties of Program Coordinator)

Resolution of the above named Employer ("Employer")

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the establishment of a deferred compensation plan for such employees serves the interests of the Employer by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that the establishment of a deferred compensation plan to be administered by the ICMA Retirement Corporation serves the above objectives; and

WHEREAS, the Employer desires that its deferred compensation plan be administered by the ICMA Retirement Corporation, and that some or all of the funds held under such plan be invested in VantageTrust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans;

NOW THEREFORE BE IT RESOLVED that the Employer hereby adopts the deferred compensation plan (the "Plan") in the form of: (Select one)

☒ The ICMA Retirement Corporation Deferred Compensation Plan and Trust, referred to as Appendix A☐ The plan provided by the Employer (executed copy attached hereto).

BE IT FURTHER RESOLVED that the Employer hereby adopts the Declaration of Trust of VantageTrust, attached hereto as Appendix B, intending this adoption to be operative with respect to any retirement or deferred compensation plan subsequently established by the Employer, if the assets of the plan are to be invested in VantageTrust.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust, with the Employer serving as trustee, for the exclusive benefit of the Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose.

BE IT FURTHER RESOLVED that the Employer hereby agrees to serve as trustee under the Plan.

BE IT FURTHER RESOLVED that the Kimberly Murray (use title of official, not name) shall be the coordinator for this program; shall receive necessary reports, notices, etc. from ICMA Retirement Corporation or VantageTrust; shall cast, on behalf of the Employer, any required votes under VantageTrust; Administrative duties to carry out the plan may be assigned to the appropriate departments, and is authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

I, _____, Clerk of the (City, County, etc.) of _____, do hereby certify that the foregoing resolution, proposed by _____, in the (Council Member, Trustee, etc.) of _____ was duly passed and adopted in the (Council, Board, etc.) of the (City, County, etc.) of _____ at regular meeting thereof assembled this ____ day of _____, 20____, by the following vote:

AYES:

NAYS:

ABSENT:

(Seal)

Clerk of the (City, County, etc.)

457 Governmental Deferred Compensation Plan & Trust



DEFERRED COMPENSATION PLAN AND TRUST

As Amended and Restated Effective January 1, 2006

Article I. Purpose

The Employer hereby establishes and maintains the Employer's Deferred Compensation Plan and Trust, hereafter referred to as the "Plan." The Plan consists of the provisions set forth in this document.

The primary purpose of this Plan is to provide retirement income and other deferred benefits to the Employees of the Employer and the Employees' Beneficiaries in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, as amended (the "Code").

This Plan shall be an agreement solely between the Employer and participating Employees. The Plan and Trust forming a part hereof are established and shall be maintained for the exclusive benefit of Participants and their Beneficiaries. No part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

Article II. Definitions

- 2.01 Account.** The bookkeeping account maintained for each Participant reflecting the cumulative amount of the Participant's Deferred Compensation, including any income, gains, losses, or increases or decreases in market value attributable to the Employer's investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Participant's Beneficiary and any fees or expenses charged against such Participant's Deferred Compensation.
- 2.02 Accounting Date.** Each business day that the New York Stock Exchange is open for trading, as provided in Section 6.06 for valuing the Trust's assets.
- 2.03 Administrator.** The person or persons named in writing to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described. The Employer may remove any person as Administrator upon 75 days' advance notice in writing to such person, in which case the Employer shall name another person or persons to act as Administrator. The Administrator may resign upon 75 days' advance notice in writing to the Employer, in which case the Employer shall name another person or persons to act as Administrator.
- 2.04 Automatic Distribution Date.** April 1 of the calendar year after the Plan Year the Participant attains age 70½ or, if later, has a Severance Event.
- 2.05 Beneficiary.** The person or persons designated by the Participant in his or her Joinder Agreement who shall receive any benefits payable hereunder in the event of the Participant's death. In the event that the Participant names two or more Beneficiaries, each Beneficiary shall be entitled to equal shares of the benefits payable at the Participant's death, unless otherwise provided in the Participant's Joinder Agreement. If no beneficiary is designated in the Joinder Agreement, if the Designated Beneficiary predeceases the Participant, or if the designated Beneficiary does not survive the Participant for a period of fifteen (15) days, then the estate of the Participant shall be the Beneficiary. If a married Participant resides in a community or marital property state, the Participant shall be responsible for obtaining appropriate consent of his or her spouse in the event the Participant designates someone other than his or her spouse as Beneficiary. The preceding sentence shall not apply with respect to a Deemed IRA under Article IX.
- 2.06 Deemed IRA.** A separate account or annuity established under the Plan that complies with the requirements of Section 408(q) of the Code, the Income Tax Regulations thereunder, and any other IRS guidance.

- 2.07 Deferred Compensation.** The amount of Includible Compensation otherwise payable to the Participant which the Participant and the Employer mutually agree to defer hereunder, any amount credited to a Participant's Account by reason of a transfer under Section 6.09 or 6.10, a rollover under Section 6.11, or any other amount which the Employer agrees to credit to a Participant's Account.
- 2.08 Dollar Limitation.** The applicable dollar amount within the meaning of Section 457(b)(2)(A) of the Code, as adjusted for the cost-of-living in accordance with Section 457(e)(15) of the Code.
- 2.09 Employee.** Any individual who provides services for the Employer, whether as an employee of the Employer or as an independent contractor, and who has been designated by the Employer as eligible to participate in the Plan.
- 2.10 Employer.** _____, which is a political subdivision, agency or instrumentality of the [State/Commonwealth] of _____, described in Section 457(e)(1)(A) of the Code.
- 2.11 457 Catch-Up Dollar Limitation.** Twice the Dollar Limitation.
- 2.12 Includible Compensation.** Includible Compensation of a Participant means "compensation," as defined in Section 415(c)(3) of the Code, for services performed for the Employer. Includible Compensation shall be determined without regard to any community property laws. For purposes of a Participant's Joinder Agreement only and not for purposes of the limitations in Article V, Includible Compensation shall include pre-tax contributions (excluding direct employer contributions) to an integral part trust of the employer providing retiree health care benefits.
- 2.13 Joinder Agreement.** An agreement entered into between an Employee and the Employer, including any amendments or modifications thereof. Such agreement shall fix the amount of Deferred Compensation, specify a preference among the investment alternatives designated by the Employer, designate the Employee's Beneficiary or Beneficiaries, and incorporate the terms, conditions, and provisions of the Plan by reference.
- 2.14 Normal Limitation.** The maximum amount of Deferred Compensation for any Participant for any taxable year (other than amounts referred to in Sections 6.09, 6.10, and 6.11).
- 2.15 Normal Retirement Age.** Age 70½, unless the Participant has elected an alternate Normal Retirement Age by written instrument delivered to the Administrator prior to a Severance Event. A Participant's Normal Retirement Age determines the period during which a Participant may utilize the 457 Catch-Up Dollar Limitation of Section 5.02(b) hereunder. Once a Participant has to any extent utilized the catch-up limitation of Section 5.02(b), his Normal Retirement Age may not be changed.

A Participant's alternate Normal Retirement Age may not be earlier than the earliest date that the Participant will become eligible to retire and receive immediate, unreduced retirement benefits under the Employer's basic defined benefit retirement plan covering the Participant (or a money purchase pension plan in which the Participant also participates if the Participant is not eligible to participate in a defined benefit plan), and may not be later than the date the Participant will attain age 70½. If the Participant will not become eligible to receive benefits under a basic defined benefit retirement plan (or money purchase pension plan, if applicable) maintained by the Employer, the Participant's alternate Normal Retirement Age may not be earlier than 65 and may not be later than age 70½. In no event may a Participant's normal retirement age be different than the normal retirement age under the Employer's other 457(b) plans, if any.

In the event the Plan has Participants that include qualified police or firefighters (as defined under Section 415(b)(2)(H)(ii)(I) of the Code), a normal retirement age may be designated for such qualified police or firefighters that is not earlier than age 40 or later than age 70½. Alternatively, qualified police or firefighters may be permitted to designate a normal retirement age that is between age 40 and age 70½.

- 2.16 Participant.** Any Employee who has joined the Plan pursuant to the requirements of Article IV. For purposes of section 6.11 of the Plan, the term Participant includes an employee or former Employee of the Employer who has not yet received all of the payments of benefits to which he/she is entitled under the Plan.
- 2.17 Percentage Limitation.** 100 percent of the participant's Includible Compensation available to be contributed as Deferred Compensation for the taxable year.
- 2.18 Plan Year.** The calendar year.
- 2.19 Retirement.** The first date upon which both of the following shall have occurred with respect to a participant: Severance Event and attainment of age 65.
- 2.20 Severance Event.** A severance of the Participant's employment with the Employer within the meaning of Section 457(d)(1)(A)(ii) of the Code.

In general, a Participant shall be deemed to have experienced a Severance Event for purposes of this Plan when, in accordance with the established practices of the Employer, the employment relationship is considered to have actually terminated. In the case of a Participant who is an independent contractor of the Employer, a Severance Event shall be deemed to have occurred when the Participant's contract under which services are performed has completely expired and terminated, there is no foreseeable possibility that the Employer will renew the contract or enter into a new contract for the Participant's services, and it is not anticipated that the Participant will become an Employee of the Employer, or such other events as may be permitted under the Code.

- 2.21 Trust.** The Trust created under Article VI of the Plan which shall consist of all compensation deferred under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

Article III. Administration

- 3.01 Duties of the Employer.** The Employer shall have the authority to make all discretionary decisions affecting the rights or benefits of Participants which may be required in the administration of this Plan. The Employer's decisions shall be afforded the maximum deference permitted by applicable law.
- 3.02 Duties of Administrator.** The Administrator, as agent for the Employer, shall perform nondiscretionary administrative functions in connection with the Plan, including the maintenance of Participants' Accounts, the provision of periodic reports of the status of each Account, and the disbursement of benefits on behalf of the Employer in accordance with the provisions of this Plan.

Article IV. Participation in the Plan

- 4.01 Initial Participation.** An Employee may become a Participant by entering into a Joinder Agreement prior to the beginning of the calendar month in which the Joinder Agreement is to become effective to defer compensation not yet earned, or such other date as may be permitted under the Code. A new employee may defer compensation in the calendar month during which he or she first becomes an employee if a Joinder Agreement is entered into on or before the first day on which the employee performs services for the Employer.
- 4.02 Amendment of Joinder Agreement.** A Participant may amend an executed Joinder Agreement to change the amount of Includible Compensation not yet earned which is to be deferred (including the reduction of such future deferrals to zero). Such amendment shall become effective as of the beginning of the calendar month commencing after the date the amendment is executed, or such other date as may be permitted under the Code. A Participant may at any time amend his or her Joinder Agreement to change the designated Beneficiary, and such amendment shall become effective immediately.

Article V. Limitations on Deferrals

5.01 Normal Limitation. Except as provided in Section 5.02, the maximum amount of Deferred Compensation for any Participant for any taxable year, shall not exceed the lesser of the Dollar Limitation or the Percentage Limitation.

5.02 Catch-Up Limitations.

- (a) *Catch-up Contributions for Participants Age 50 and Over:* A Participant who has attained the age of 50 before the close of the Plan Year, and with respect to whom no other elective deferrals may be made to the Plan for the Plan Year by reason of the Normal Limitation of Section 5.01, may enter into a Joinder Agreement to make elective deferrals in addition to those permitted by the Normal Limitation in an amount not to exceed the lesser of:
- (1) The applicable dollar amount as defined in Section 414(v)(2)(B) of the Code, as adjusted for the cost-of-living in accordance with Section 414(v)(2)(C) of the Code; or
 - (2) The excess (if any) of
 - (i) The Participant's Includible Compensation for the year, or
 - (ii) Any other elective deferrals of the Participant for such year which are made without regard to this Section 5.02(a).

An additional contribution made pursuant to this Section 5.02(a) shall not, with respect to the year in which the contribution is made, be subject to any otherwise applicable limitation contained in Section 5.01 above, or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 5.02(a) shall not apply in any year to which a higher limit under Section 5.02(b) applies.

- (b) *Last Three Years Catch-up Contribution:* For each of the last three (3) taxable years for a Participant ending before his or her attainment of Normal Retirement Age, the maximum amount of Deferred Compensation shall be the lesser of:
- (1) The 457 Catch-Up Dollar Limitation, or
 - (2) The sum of
 - (i) The Normal Limitation for the taxable year, and
 - (ii) The Normal Limitation for each prior taxable year of the Participant commencing after 1978 less the amount of the Participant's Deferred Compensation for such prior taxable years. A prior taxable year shall be taken into account under the preceding sentence only if (x) the Participant was eligible to participate in the Plan for such year, and (y) compensation (if any) deferred under the Plan (or such other plan) was subject to the Normal Limitation.

5.03 Sick, Vacation and Back Pay. If the Employer so elects, a Participant may defer all or a portion of the value of the Participant's accumulated sick pay, accumulated vacation pay and/or back pay, provided that such deferral does not cause total deferrals on behalf of the Participant to exceed the Dollar Limitation or Percentage Limitation (including any Catch-up Dollar Limitation) for the year of deferral. The election to defer such sick, vacation and/or back pay must be made in a manner and at a time permitted under Section 1.457-4(d) of the Income Tax Regulations.

For Plan Years beginning before January 1, 2009, pursuant to proposed IRS regulations issued under Section 415 of the Code, the Plan may permit deferrals from compensation, including sick, vacation and back pay, so long as the amounts are paid within 2½ months following severance from employment and the other requirements of Sections

457(b) and 415 of the Code are met. For Plan Years beginning on or after January 1, 2009, pursuant to final IRS regulations issued under Section 415 of the Code, the Plan may permit deferrals from compensation, including sick, vacation and back pay, so long as the amounts are paid by the later of: (i) 2½ months following severance from employment, and (ii) the end of the calendar year that includes the date of such severance from employment, and the other requirements of Sections 457(b) and 415 of the Code are met. Additionally, the agreement to defer such amounts must be entered into prior to the first day of the month in which the amounts otherwise would be paid or made available.

- 5.04 Other Plans.** Notwithstanding any provision of the Plan to the contrary, the amount excludible from a Participant's gross income under this Plan or any other eligible deferred compensation plan under Section 457(b) of the Code shall not exceed the limits set forth in Sections 457(b) and 414(v) of the Code.
- 5.05 Excess Deferrals.** Any amount that exceeds the maximum Dollar Limitation or Percentage Limitation (including any applicable Catch-Up Dollar Limitation) for a taxable year, shall constitute an excess deferral for that taxable year. Any excess deferral shall be distributed in accordance with the requirements for excess deferrals under the Code and Section 1.457-4(e) of the Income Tax Regulations or other applicable Internal Revenue Service guidance.
- 5.06 Protection of Person Who Serves in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on leave of absence for qualified military service under Section 414(u) of the Code may elect to contribute additional Deferred Compensation upon resumption of employment with the Employer equal to the maximum Deferred Compensation that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Includible Compensation) without the interruption or leave, reduced by Deferred Compensation, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

Article VI. Trust and Investment of Accounts

- 6.01 Investment of Deferred Compensation.** A Trust is hereby created to hold all the assets of the Plan (except Deemed IRA contributions and earnings thereon held pursuant to Article IX) for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from the Trust as provided in Section 6.03. The trustee shall be the Employer or such other person that agrees to act in that capacity hereunder.
- 6.02 Investment Powers.** The trustee or the Administrator, acting as agent for the trustee, shall have the powers listed in this Section with respect to investment of Trust assets, except to the extent that the investment of Trust assets is directed by Participants, pursuant to Section 6.05 or to the extent that such powers are restricted by applicable law.
- (a) To invest and reinvest the Trust without distinction between principal and income in common or preferred stocks, shares of regulated investment companies and other mutual funds, bonds, loans, notes, debentures, certificates of deposit, contracts with insurance companies including but not limited to insurance, individual or group annuity, deposit administration, guaranteed interest contracts, and deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit. Assets of the Trust may be invested in securities that involve a higher degree of risk than investments that have demonstrated their investment performance over an extended period of time.
 - (b) To invest and reinvest all or any part of the assets of the Trust in any common, collective or commingled trust fund that is maintained by a bank or other institution and that is available to Employee plans described under Sections 457 or 401 of the Code, or any successor provisions thereto, and during the period of time that an investment through any such medium shall exist, to the extent of participation of the Plans the declaration of trust of such commonly collective, or commingled trust fund shall constitute a part of this Plan.
 - (c) To invest and reinvest all or any part of the assets of the Trust in any group annuity, deposit administration or guaranteed interest contract issued by an insurance company or other financial institution on a commingled

or collective basis with the assets of any other 457 plan or trust qualified under Section 401(a) of the Code or any other plan described in Section 401(a)(24) of the Code, and such contract may be held or issued in the name of the Administrator, or such custodian as the Administrator may appoint, as agent and nominee for the Employer. During the period that an investment through any such contract shall exist, to the extent of participation of the Plan, the terms and conditions of such contract shall constitute a part of the Plan.

- (d) To hold cash awaiting investment and to keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan or otherwise to be in the best interests of the Plan.
- (e) To hold, to authorize the holding of, and to register any investment to the Trust in the name of the Plan, the Employer, or any nominee or agent of any of the foregoing, including the Administrator, or in bearer form, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, and to organize corporations or trusts under the laws of any jurisdiction for the purpose of acquiring or holding title to any property for the Trust, all with or without the addition of words or other action to indicate that property is held in a fiduciary or representative capacity but the books and records of the Plan shall at all times show that all such investments are part of the Trust.
- (f) Upon such terms as may be deemed advisable by the Employer or the Administrator, as the case may be, for the protection of the interests of the Plan or for the preservation of the value of an investment, to exercise and enforce by suit for legal or equitable remedies or by other action, or to waive any right or claim on behalf of the Plan or any default in any obligation owing to the Plan, to renew, extend the time for payment of, agree to a reduction in the rate of interest on, or agree to any other modification or change in the terms of any obligation owing to the Plan, to settle, compromise, adjust, or submit to arbitration any claim or right in favor of or against the Plans to exercise and enforce any and all rights of foreclosure, bid for property in foreclosure, and take a deed in lieu of foreclosure with or without paying consideration therefor, to commence or defend suits or other legal proceedings whenever any interest of the Plan requires it, and to represent the Plan in all suits or legal proceedings in any court of law or equity or before any body or tribunal.
- (g) To employ suitable consultants, depositories, agents, and legal counsel on behalf of the Plan.
- (h) To open and maintain any bank account or accounts in the name of the Plan, the Employer, or any nominee or agent of the foregoing, including the Administrator, in any bank or banks.
- (i) To do any and all other acts that may be deemed necessary to carry out any of the powers set forth herein.

6.03 Taxes and Expenses. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon the Plan, or in respect to the Trust, or the income thereof, and all commissions or acquisitions or dispositions of securities and similar expenses of investment and reinvestment of the Trust, shall be paid from the Trust. Such reasonable compensation of the Administrator, as may be agreed upon from time to time by the Employer and the Administrator, and reimbursement for reasonable expenses incurred by the Administrator in performance of its duties hereunder (including but not limited to fees for legal, accounting, investment and custodial services) shall also be paid from the Trust.

6.04 Payment of Benefits. The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Administrator, or by any custodian or other person so authorized by the Employer to make such disbursement. The Administrator, custodian or other person shall not be liable with respect to any distribution of Trust assets made at the direction of the Employer.

6.05 Investment Funds. In accordance with uniform and nondiscriminatory rules established by the Employer and the Administrator, the Participant may direct his or her Accounts to be invested in one (1) or more investment

funds available under the Plan; provided, however, that the Participant's investment directions shall not violate any investment restrictions established by the Employer. Neither the Employer, the Administrator, nor any other person shall be liable for any losses incurred by virtue of following such directions or with any reasonable administrative delay in implementing such directions.

6.06 Valuation of Accounts. As of each Accounting Date, the Plan assets held in each investment fund offered shall be valued at fair market value and the investment income and gains or losses for each fund shall be determined. Such investment income and gains or losses shall be allocated proportionately among all Account balances on a fund-by-fund basis. The allocation shall be in the proportion that each such Account balance as of the immediately preceding Accounting Date bears to the total of all such Account balances as of that Accounting Date. For purposes of this Article, all Account balances include the Account balances of all Participants and Beneficiaries.

6.07 Participant Loan Accounts. Participant loan accounts shall be invested in accordance with Section 8.03 of the Plan. Such Accounts shall not share in any investment income and gains or losses of the investment funds described in Sections 6.05 and 6.06.

6.08 Crediting of Accounts. The Participant's Account shall reflect the amount and value of the investments or other property obtained by the Employer through the investment of the Participant's Deferred Compensation pursuant to Sections 6.05 and 6.06. It is anticipated that the Employer's investments with respect to a Participant will conform to the investment preference specified in the Participant's Joinder Agreement, but nothing herein shall be construed to require the Employer to make any particular investment of a Participant's Deferred Compensation. Each Participant shall receive periodic reports, not less frequently than annually, showing the then current value of his or her Account.

6.09 Post-Severance Transfers Among Eligible Deferred Compensation Plans.

(a) *Incoming Transfers:* A transfer may be accepted from an eligible deferred compensation plan maintained by another employer and credited to a Participant's or Beneficiary's Account under the Plan if:

- (1) In the case of a transfer for a Participant, the Participant has had a Severance Event with that employer and become an Employee of the Employer;
- (2) The other employer's plan provides that such transfer will be made; and
- (3) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer.

The Employer may require such documentation from the predecessor plan as it deems necessary to effectuate the transfer in accordance with Section 457(e)(10) of the Code, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. The Employer may refuse to accept a transfer in the form of assets other than cash, unless the Employer and the Administrator agree to hold such other assets under the Plan.

(b) *Outgoing Transfers:* An amount may be transferred to an eligible deferred compensation plan maintained by another employer, and charged to a Participant's or Beneficiary's Account under this Plan, if:

- (1) In the case of a transfer for a Participant, the Participant has a Severance Event with the Employer and becomes an employee of the other employer;
- (2) The other employer's plan provides that such transfer will be accepted;
- (3) The Participant or Beneficiary and the employers have signed such agreements as are necessary to assure that the Employer's liability to pay benefits to the Participant has been discharged and assumed by the other employer; and

- (4) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer.

The Employer may require such documentation from the other plan as it deems necessary to effectuate the transfer, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. Such transfers shall be made only under such circumstances as are permitted under Section 457 of the Code and the regulations thereunder.

6.10 Transfers Among Eligible Deferred Compensation Plans of the Employer.

- (a) *Incoming Transfers.* A transfer may be accepted from another eligible deferred compensation plan maintained by the Employer and credited to a Participant's or Beneficiary's Account under the Plan if:
- (1) The Employer's other plan provides that such transfer will be made;
 - (2) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and
 - (3) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Plan unless the Participant or Beneficiary is performing services for the Employer.
- (b) *Outgoing Transfers.* A transfer may be accepted from another eligible deferred compensation plan maintained by the Employer and credited to a Participant's or Beneficiary's Account under the Plan if:
- (1) The Employer's other plan provides that such transfer will be accepted;
 - (2) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and
 - (3) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Employer's other eligible deferred compensation plan unless the Participant or Beneficiary is performing services for the Employer.

6.11 Eligible Rollover Distributions.

- (a) *Incoming Rollovers:* An eligible rollover distribution may be accepted from an eligible retirement plan and credited to a Participant's Account under the Plan. The Employer may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. The Plan shall separately account (in one or more separate accounts) for eligible rollover distributions from any eligible retirement plan.
- (b) *Outgoing Rollovers:* Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (c) *Definitions:*
- (1) *Eligible Rollover Distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not

include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Sections 401(a)(9) and 457(d)(2) of the Code; and any distribution made as a result of an unforeseeable emergency of the employee. For purposes of distributions from other eligible retirement plans rolled over into this Plan, the term eligible rollover distribution shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), such as after-tax contributions.

- (2) *Eligible Retirement Plan:* An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Sections 403(a) or 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible governmental employer described in Section 457(e)(1) (A) of the Code, that accepts the distributee's eligible rollover distribution.
- (3) *Distributee:* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.
- (4) *Direct Rollover:* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

6.12 Trustee-to-Trustee Transfers to Purchase Permissive Service Credit. All or a portion of a Participant's Account may be transferred directly to the trustee of a defined benefit governmental plan (as defined in Section 414(d) of the Code) if such transfer is (a) for the purchase of permissive service credit (as defined in Section 415(n)(3) (A) of the Code) under such plan, or (b) a repayment to which Section 415 of the Code does not apply by reason of subsection (k)(3) thereof, within the meaning of Section 457(e)(17) of the Code.

6.13 Treatment of Distributions of Amounts Previously Rolled Over From 401(a) and 403(b) Plans and IRAs. For purposes of Section 72(t) of the Code, a distribution from this Plan shall be treated as a distribution from a qualified retirement plan described in Section 4974(c)(1) of the Code to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in Section 4974(c) of the Code).

6.14 Employer Liability. In no event shall the Employer's liability to pay benefits to a Participant under this Plan exceed the value of the amounts credited to the Participant's Account; neither the Employer nor the Administrator shall be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

Article VII. Benefits

7.01 Retirement Benefits and Election on Severance Event.

- (a) *General Rule:* Except as otherwise provided in this Article VII, the distribution of a Participant's Account shall commence as of a Participant's Automatic Distribution Date, and the distribution of such benefits shall be made in accordance with one of the payment options described in Section 7.02. Notwithstanding the foregoing, but subject to the following paragraphs of this Section 7.01, the Participant may elect following a Severance Event to have the distribution of benefits commence on a fixed determinable date other than that described in the preceding sentence, but not later than April 1 of the year following the year of the Participant's Retirement or attainment of age 70½, whichever is later. The Participant's right to change his or her election with respect to commencement of the distribution of benefits shall not be restrained by this Section 7.01.

Notwithstanding the foregoing, the Administrator, in order to ensure the orderly administration of this provision, may establish a deadline after which such election to defer the commencement of distribution of benefits shall not be allowed.

- (b) *Loans:* Notwithstanding the foregoing provisions of this Section 7.01, no election to defer the commencement of benefits after a Severance Event shall operate to defer the distribution of any amount in the Participant's loan account in the event of a default of the Participant's loan.

7.02 Payment Options. As provided in Sections 7.01, 7.04 and 7.05, a Participant may elect to have value of the Participant's Account distributed in accordance with one of the following payment options, provided that such option is consistent with the limitations set forth in Section 7.03:

- (a) Equal monthly, quarterly, semi-annual or annual payments in an amount chosen by the Participant, continuing until his or her Account is exhausted;
- (b) One lump-sum payment;
- (c) Approximately equal monthly, quarterly, semi-annual or annual payments, calculated to continue for a period certain chosen by the Participant;
- (d) Annual Payments equal to the minimum distributions required under Section 401(a)(9) of the Code, including the incidental death benefit requirements of Section 401(a)(9)(G), over the life expectancy of the Participant or over the life expectancies of the Participant and his or her Beneficiary;
- (e) Payments equal to payments made by the issuer of a retirement annuity policy acquired by the Employer;
- (f) A split distribution under which payments under options (a), (b), (c) or (e) commence or are made at the same time, as elected by the Participant under Section 7.01, provided that all payments commence (or are made) by the latest benefit commencement date permitted under Section 7.01;
- (g) Any other payment option elected by the Participant and agreed to by the Employer and Administrator.

A Participant's selection of a payment option under Subsections (a), (c), or (g) above may include the selection of an automatic annual cost-of living increase. Such increase will be based on the rise in the Consumer Price Index for All Urban Consumers (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase will be made in periodic payment checks beginning the following January.

7.03 Limitation on Options. No payment option may be selected by a Participant under subsections 7.02(a) or (c) unless the amount of any installment is not less than \$100. No payment option may be selected by a Participant under Sections 7.02, 7.04, or 7.05 unless it satisfies the requirements of Sections 401(a)(9) and 457(d)(2) of the Code, including that payments commencing before the death of the Participant shall satisfy the incidental death benefit requirements under Section 401(a)(9)(G) of the Code.

7.04 Minimum Required Distributions. Notwithstanding any provision of the Plan to the contrary, the Plan shall comply with the minimum required distribution rules set forth in Sections 457(d)(2) and 401(a)(9) of the Code, including the incidental death benefit requirements of Section 401(a)(9)(G) of the Code.

7.05 Post-Retirement Death Benefits.

- (a) Should the Participant die after he or she has begun to receive benefits under a payment option, the remaining payments, if any, under the payment option shall continue until the Administrator receives notice of the Participant's death. Upon notification of the Participant's death, benefits shall be payable to the Participant's Beneficiary commencing not later than December 31 of the year following the year of the Participant's death, provided that the Beneficiary may elect to begin benefits earlier than that date.

- (b) In the event that the Beneficiary dies before the payment of death benefits has commenced or been completed, the remaining benefits payable under the payment option applicable to the Beneficiary shall, subject to the requirements set forth in Section 7.04, be paid to an additional beneficiary designated by the Beneficiary. If no additional beneficiary is named, payment shall be made to the Beneficiary's estate in a lump sum.
- (c) In the event that the Participant's estate is the Beneficiary, payment shall be made to the estate in a lump sum.

7.06 Pre-Retirement Death Benefits.

- (a) Should the Participant die before he or she has begun to receive the benefits provided by Section 7.01, the value of the Participant's Account shall be payable to the Beneficiary commencing not later than December 31 of the year following the year of the Participant's death, provided that the Beneficiary may elect to begin benefits earlier than that date.
- (b) In the event that the Beneficiary dies before the payment of death benefits has commenced or been completed, the remaining value of the Participant's Account shall be paid to the estate of the Beneficiary in a lump sum. In the event that the Participant's estate is the Beneficiary, payment shall be made to the estate in a lump sum.

7.07 Unforeseeable Emergencies.

- (a) In the event an unforeseeable emergency occurs, a Participant or Beneficiary may apply to the Employer to receive that part of the value of his or her Account that is reasonably needed to satisfy the emergency need. If such an application is approved by the Employer, the Participant or Beneficiary shall be paid only such amount as the Employer deems necessary to meet the emergency need, but payment shall not be made to the extent that the financial hardship may be relieved through cessation of deferral under the Plan, insurance or other reimbursement, or liquidation of other assets to the extent such liquidation would not itself cause severe financial hardship.
- (b) An unforeseeable emergency shall be deemed to involve only circumstances of severe financial hardship of a Participant or Beneficiary resulting from an illness or accident of the participant or beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Section 152 of the Code, and, for taxable years beginning on or after January 1, 2005, without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B) of the Code); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Beneficiary. For example, the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or a dependent (as defined in section 152 of the Code, and, for taxable years beginning on or after January 1, 2005, without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B) of the Code) may also constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 7.07(b), the purchase of a home and the payment of college tuition are not unforeseeable emergencies.

7.08 In-Service Distribution of Rollover Contributions. Effective January 1, 2006, the Employer may elect to allow Participants to receive an in-service distribution of amounts attributable to rollover contributions to the Plan. If the Employer has elected to make such distributions available, a Participant that has a separate account attributable to rollover contributions to the Plan may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

7.09 In-Service Distribution to Participants Age 70½ or Older. A Participant who has reached age 70½ and has not yet had a Severance Event, may, at any time, request a distribution of all or a part of his or her Account. A Participant may only receive two (2) such distributions pursuant to this Section 7.09 in any calendar year.

7.10 Distribution De Minimis Accounts. Notwithstanding the foregoing provisions of this Article VII:

- (a) *Mandatory Distribution.* If the value of a Participant's Account is less than \$1,000, the Participant's Account shall be paid to the Participant in a single lump sum distribution, provided that:
 - (1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and
 - (2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 7.10.
- (b) *Voluntary Distribution.* If the value of the Participant's Account is at least \$1,000 but not more than the dollar limit under Section 411(a)(11)(A) of the Code, the Participant may elect to receive his or her entire Account in a lump sum payment if:
 - (1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and
 - (2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 7.10.

Article VIII. Loans to Participants

8.01 Availability of Loans to Participants.

- (a) The Employer may elect to make loans available to Participants in this Plan. If the Employer has elected to make loans available to Participants, a Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article. However, no loans are available from Deemed IRAs.
- (b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Administrator and are not inconsistent with the provisions of this Article, and that loans are made available to all Participants on a reasonably equivalent basis.

8.02 Terms and Conditions of Loans to Participants. Any loan by the Plan to a Participant under Section 8.01 of the Plan shall satisfy the following requirements:

- (a) *Availability.* Loans shall be made available to all Participants on a reasonably equivalent basis.
- (b) *Interest Rate.* Loans must be adequately secured and bear a reasonable interest rate.
- (c) *Loan Limit.* No Participant loan shall exceed the present value of the Participant's Account.
- (d) *Foreclosure.* In the event of default on any installment payment, the outstanding balance of the loan shall be a deemed distribution. In such event, an actual distribution of a plan loan offset amount will not occur until a distributable event occurs in the Plan.
- (e) *Reduction of Account.* Notwithstanding any other provision of this Plan, the portion of the Participant's Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan.
- (f) *Amount of Loan.* At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant from the Plan and from all other plans of the Employer that are either eligible deferred compensation plans described in section 457(b) of the Code or qualified employer plans under Section 72(p)(4) of the Code shall not exceed the lesser of:

- (1) \$50,000, reduced by the excess (if any) of
 - (i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made; or
 - (ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or
- (2) One-half of the value of the Participant's interest in all of his or her Accounts under this Plan.
- (g) *Application for Loan.* The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No more than one (1) loan may be made by the Plan to a Participant's in any calendar year. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.
- (h) *Length of Loan.* Any loan issued shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least monthly, over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time (determined at the time of the loan is made) after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended for up to one (1) year during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this subsection (h), with a revised payment schedule (within such term) instituted at the end of such period of suspension.
- (i) *Prepayment.* The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.
- (j) *Promissory Note.* The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer.
- (k) *Security.* The loan shall be secured by an assignment of the participant's right, title and interest in and to his or her Account.
- (l) *Assignment or Pledge.* For the purposes of paragraphs (f) and (g), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.
- (m) *Other Terms and Conditions.* The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the qualification of the Plan and Trust under Section 457 of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may also fix other terms and conditions of the loan, including, but not limited to, the provision of grace periods following an event of default, not inconsistent with the provisions of this Article and Section 72(p) of the Code, and any applicable regulations thereunder.

8.03 Participant Loan Accounts.

- (a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.05 of the Plan, to the Participant's loan account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.

- (b) The assets of a Participant's loan account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 8.01 of the Plan or in cash. Uninvested cash balances in a Participant's loan account shall not bear interest. Neither the Employer, the Administrator, nor any other person shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.
- (c) Repayment of principal and payment of interest shall be made by payroll deduction or, where repayment cannot be made by payroll deduction, by check, and shall be invested in one (1) or more other investment funds, in accordance with Section 6.05 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's loan account.
- (d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the provisions of the Plan, governing the establishment and maintenance of Participant loan accounts.

Article IX. Deemed IRAs

9.01 General. This Article IX of the Plan reflects section 602 of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), as amended by the Job Creation and Worker Assistance Act of 2002. This Article is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. This Article IX shall supersede the provisions of the Plan to the extent that those provisions are inconsistent with the provisions of this Article IX.

Effective for Plan Years beginning after December 31, 2002, the Employer may elect to allow Employees to make voluntary employee contributions to a separate account or annuity established under the Plan that complies with the requirements of Section 408(q) of the Code and any regulations promulgated thereunder (a "Deemed IRA"). The Plan shall establish a separate account for the designated Deemed IRA contributions of each Employee and any earnings properly allocable to the contributions, and maintain separate recordkeeping with respect to each such Deemed IRA.

9.02 Voluntary Employee Contributions. For purposes of this Article, a voluntary employee contribution means any contribution (other than a mandatory contribution within the meaning of Section 411(c)(2) of the Code) that is made by the Employee and which the Employee has designated, at or prior to the time of making the contribution, as a contribution to which this Article applies.

9.03 Deemed IRA Trust Requirements. This Article shall satisfy the trust requirement under Section 408(q) of the Code and the regulations thereto. IRAs established pursuant to this Article shall be held in one or more trusts or custodial accounts (the "Deemed IRA Trusts"), which shall be separate from the Trust established under the Plan to hold contributions other than Deemed IRA contributions. The Deemed IRA Trusts shall satisfy the applicable requirements of Sections 408 and 408A of the Code, which requirements are set forth in section 9.05 and 9.06, respectively, and shall be established with a trustee or custodian meeting the requirements of Section 408(a)(2) of the Code ("Deemed IRA Trustee"). To the extent that the assets of any Deemed IRAs established pursuant to this Article are held in a Deemed IRA Trust satisfying the requirements of this Section 9.03, such Deemed IRA Trust, and any amendments thereto, is hereby adopted as a trust maintained under this Plan with respect to the assets held therein, and the provisions of such Deemed IRA Trust shall control so long as any assets of any Deemed IRA are held thereunder.

9.04 Reporting Duties. The Deemed IRA Trustee shall be subject to the reporting requirements of Section 408(i) of the Code with respect to all Deemed IRAs that are established and maintained under the Plan.

9.05 Deemed Traditional IRA Requirements. Deemed IRAs established in the form of traditional IRAs shall satisfy the following requirements:

- (a) *Exclusive Benefit.* The Deemed IRA account shall be established for the exclusive benefit of an Employee or his or her Beneficiaries.

(b) *Maximum Annual Contributions.*

- (1) Except in the case of a rollover contribution (as permitted by Sections 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 403(b)(10), 408(d)(3) and 457(e)(16) of the Code), no contributions will be accepted unless they are in cash, and the total of such contributions shall not exceed:

\$3,000 for any taxable year beginning in 2002 through 2004;

\$4,000 for any taxable year beginning in 2005 through 2007; and

\$5,000 for any taxable year beginning in 2008 and years thereafter.

After 2008, the limit will be adjusted by the Secretary of the Treasury for cost-of-living-increases under Section 219(b)(5)(C) of the Code. Such adjustments will be in multiples of \$500.

- (2) In the case of an Employee who is 50 or older, the annual cash contribution limit is increased by:

\$500 for any taxable year beginning in 2002 through 2005; and

\$1,000 for any taxable year beginning in 2006 and thereafter.

- (3) No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to Section 408(p) of the Code. Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is an IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the Employee first participated in that employer's SIMPLE IRA plan.

- (c) *Collectibles.* If the Deemed IRA Trust acquires collectibles with within the meaning of Section 408(m) of the Code after December 31, 1981, Deemed IRA Trust assets will be treated as a distribution in an amount equal to the cost of such collectibles.

- (d) *Life Insurance Contracts.* No part of the Deemed IRA Trust funds will be invested in life insurance contracts.

(e) *Minimum Required Distributions.*

- (1) Notwithstanding any provision of this Deemed IRA to the contrary, the distribution of the Employee's interest in the account shall be made in accordance with the requirements of Section 408(a)(6) of the Code and the Income Tax Regulations thereunder, the provisions of which are herein incorporated by reference. If distributions are made from an annuity contract purchased from an insurance company, distributions thereunder must satisfy the requirements of Q&A-4 of Section 1.401(a)(9)-6T of the Income Tax Regulations (or Section 1.401(a)(9)-6 of the Income Tax Regulations, as applicable), rather than paragraphs (2), (3) and (4) below and Section 9.05(f). The minimum required distributions calculated for this IRA may be withdrawn from another IRA of the Employee in accordance with Q&A-9 of Section 1.408-8 of the Income Tax Regulations.
- (2) The entire value of the account of the Employee for whose benefit the account is maintained will commence to be distributed no later than the first day of April following the calendar year in which such Employee attains age 70½ (the "required beginning date") over the life of such Employee or the lives of such Employee and his or her Beneficiary.
- (3) The amount to be distributed each year, beginning with the calendar year in which the Employee attains age 70½ and continuing through the year of death shall not be less than the quotient obtained by dividing the value of the IRA (as determined under section 9.05(f)(3)) as of the end of the preceding year by the distribution period in the Uniform Lifetime Table in Q&A-2 of Section 401(a)(9)-9 of the Income Tax Regulations, using the Employee's age of his or her birthday in the year. However, if the Employee's sole Beneficiary is his or her surviving spouse and such spouse is more than 10 years younger than the Employee, then the distribution period is determined under the Joint

and Last Survivor Table in Q&A-3 of Section 1.401(a)(9)-9 of the Income Tax Regulations, using the ages as of the Employee's and spouse's birthdays in the year.

- (4) The required minimum distribution for the year the Employee attains age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.
- (f) *Distribution Upon Death.*
- (1) *Death On or After Required Beginning Date.* If the Employee dies on or after the required beginning date, the remaining portion of his or her interest will be distributed at least as rapidly as follows:
- (i) If the Beneficiary is someone other than the Employee's surviving spouse, the remaining interest will be distributed over the remaining life expectancy of the Beneficiary, with such life expectancy determined using the Beneficiary's age as of his or her birthday in the year following the year of the Employee's death, or over the period described in paragraph (1)(iii) below if longer.
 - (ii) If the Employee's sole Beneficiary is the Employee's surviving spouse, the remaining interest will be distributed over such spouse's life or over the period described in paragraph (1)(iii) below if longer. Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death, or, if the distributions are being made over the period described in paragraph (1)(iii) below, over such period.
 - (iii) If there is no Beneficiary, or if applicable by operation of paragraph (1)(i) or (1)(ii) above, the remaining interest will be distributed over the Employee's remaining life expectancy determined in the year of the Employee's death.
 - (iv) The amount to be distributed each year under paragraph (1)(i), (ii), or (iii), beginning with the calendar year following the calendar year of the Employee's death, is the quotient obtained by dividing the value of the IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Section 1.401(a)(9)-9 of the Income Tax Regulations. If distributions are being made to a surviving spouse as the sole Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's or Employee's age in the year specified in paragraph 1(i), (ii), or (iii) and reduced by 1 for each subsequent year.
- (2) *Death Before Required Beginning Date.* If the Employee dies before the required beginning date, his or her entire interest will be distributed at least as rapidly as follows:
- (i) If the Beneficiary is someone other than the Employee's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Employee's death, over the remaining life expectancy of the Beneficiary, with such life expectancy determined using the age of the Beneficiary as of his or her birthday in the year following the year of the Employee's death, or, if elected, in accordance with paragraph (2)(iii) below.
 - (ii) If the Employee's sole Beneficiary is the Employee's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Employee's death (or by the end of the calendar year in which the Employee would have attained age 70½, if later), over such spouse's life, or, if elected, in accordance with paragraph (2)(iii) below. If the surviving spouse dies before distributions are required to begin, the

remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's Beneficiary's remaining life expectancy determined using such Beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with paragraph (2)(iii) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.

- (iii) If there is no Beneficiary, or if applicable by operation of paragraph (2)(i) or (2)(ii) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Beneficiary's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under paragraph (2)(ii) above).
- (iv) The amount to be distributed each year under paragraph (2)(i) or (ii) is the quotient to be obtained by dividing the value of the IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Section 1.401(a)(9)-9 of the Income Tax Regulations. If distributions are being made to a surviving spouse as the sole Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's age in the year specified in paragraph (2)(i) or (ii) and reduced by 1 for each subsequent year.
- (v) The "value" of the IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of Section 1.408-8 of the Income Tax Regulations.
- (vi) If the sole Beneficiary is the Employee's surviving spouse, the spouse may elect to treat the IRA as his or her own IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the IRA or fails to take required distributions as a Beneficiary.
- (g) *Nonforfeitable.* The interest of an Employee in the balance in his or her Deemed IRA account is nonforfeitable at all times.
- (h) *Reporting.* The Deemed IRA Trustee of a Deemed Traditional IRA shall furnish annual calendar-year reports concerning the status of the Deemed IRA account and such information concerning required minimum distributions as is prescribed by the Commissioner of Internal Revenue.
- (i) *Substitution of Deemed IRA Trustee.* If the Deemed IRA Trustee is a non-bank trustee or custodian, the non-bank trustee or custodian shall substitute another trustee or custodian if the non-bank trustee or custodian receives notice from the Commissioner of Internal Revenue that such substitution is required because it has failed to comply with the requirements of Section 1.408-2(e) of the Income Tax Regulations and Section 1.408-2T of the Income Tax Regulations.

9.06 Deemed Roth IRA Requirements. Deemed IRAs established in the form of Roth IRAs shall satisfy the following requirements:

- (a) *Exclusive Benefit.* The Deemed Roth IRA shall be established for the exclusive benefit of an Employee or his or her Beneficiaries.
- (b) *Maximum Annual Contributions.*
 - (1) *Maximum Permissible Amount.* Except in the case of a qualified rollover contribution or recharacterization (as defined in (6) below), no contribution will be accepted unless it is in cash and the total of such contributions to all the Employee's Roth IRAs for a taxable year does not exceed

the applicable amount (as defined in (2) below), or the Employee's compensation (as defined in (8) below) if less, for that taxable year. The contribution described in the previous sentence that may not exceed the lesser of the applicable amount or the Employee's compensation is referred to as a "regular contribution." A "qualified rollover contribution" is a rollover contribution that meets the requirements of Section 408(d)(3) of the Code, except the one-rollover-per-year rule of Section 408(d)(3)(B) does not apply if the rollover contribution is from another IRA other than a Roth IRA (a "nonRoth IRA"). Contributions may be limited under (3) through (5) below.

(2) *Applicable Amount.* The applicable amount is determined under (i) or (ii) below:

- (i) If the Employee is under age 50, the applicable amount is:
 - \$3,000 for any taxable year beginning in 2002 through 2004;
 - \$4,000 for any taxable year beginning in 2005 through 2007; and
 - \$5,000 for any taxable year beginning in 2008 and years thereafter.
- (ii) If the Employee is 50 or older, the applicable amount is:
 - \$3,500 for any taxable year beginning in 2002 through 2004;
 - \$4,500 for any taxable year beginning in 2005;
 - \$5,000 for any taxable year beginning in 2006 through 2007; and
 - \$6,000 for any taxable year beginning in 2008 and years thereafter.

After 2008, the limits in paragraph (2)(i) and (ii) above will be adjusted by the Secretary of the Treasury for cost-of-living increases under Section 219(b)(5)(C) of the Code. Such adjustments will be in multiples of \$500.

- (3) If (i) and/or (ii) below apply, the maximum regular contribution that can be made to all the Employee's Roth IRAs for the taxable year is the smaller amount determined under (i) or (ii).
 - (i) The maximum regular contribution is phased out ratably between certain levels of modified adjusted gross income ("modified AGI," defined in (7) below) in accordance with the following table:

Filing Status	Modified AGI		
	Full Contribution	Phase-out Range	No Contribution
Single or Head of Household	\$95,000 or less	Between \$95,000 and \$110,000	\$110,000 or more
Joint Return or Qualifying Widower	\$150,000 or less	Between \$150,000 and \$160,000	\$160,000 or more
Married-Separate Return	\$0	Between \$0 and \$10,000	\$10,000 or more

If the Employee's modified AGI for a taxable year is in the phase-out range, the maximum regular contribution determined under this table for that taxable year is rounded up to the next multiple of \$10 and not reduced below \$200.

- (ii) If the Employee makes regular contributions to both Roth and nonRoth IRAs for a taxable year, the maximum regular contribution that can be made to all the Employee's Roth IRAs for that taxable year is reduced by the regular contributions made to the Employee's nonRoth IRAs for the taxable year.
- (4) *Qualified Rollover Contribution Limit.* A rollover from a nonRoth IRA cannot be made to this IRA if, for the year the amount is distributed from the nonRoth IRA, (i) the Employee is married and files a separate return, (ii) the Employee is not married and has modified AGI in excess of \$100,000 or (iii) the Employee is married and together the Employee and the Employee's spouse have modified AGI in excess of \$100,000. For purposes of the preceding sentence, a husband and wife are not treated as married for a taxable year if they have lived apart at all times during that taxable year and file separate returns for the taxable year.
- (5) *SIMPLE IRA Limits.* No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to Section 408(p) of the Code. Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, an IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the Employee first participated in that employer's SIMPLE IRA plan.
- (6) *Recharacterization.* A regular contribution to a nonRoth IRA may be recharacterized pursuant to the rules in Section 1.408A-5 of the Income Tax Regulations as a regular contribution to this IRA, subject to the limits in (3) above.
- (7) *Modified AGI.* For purposes of (3) and (4) above, an Employee's modified AGI for a taxable year is defined in Section 408A(c)(3)(C)(i) of the Code and does not include any amount included in adjusted gross income as a result of a rollover from a nonRoth IRA (a "conversion").
- (8) *Compensation.* For purposes of (1) above, compensation is defined as wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) and includes earned income, as defined in Section 401(c)(2) of the Code (reduced by the deduction the self-employed individual takes for contributions made to a self-employed retirement plan). For purposes of this definition, Section 401(c)(2) of the Code shall be applied as if the term trade or business for purposes of Section 1402 of the Code included service described in subsection (c)(6). Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income. Compensation also does not include any amount received as a pension or annuity or as deferred compensation. The term "compensation" shall include any amount includible in the Employee's gross income under Section 71 of the Code with respect to a divorce or separation instrument described in subparagraph (A) of Section 71(b)(2) of the Code. In the case of a married Employee filing a joint return, the greater compensation of his or her spouse is treated as his or her own compensation but only to the extent that such spouse's compensation is not being used for purposes of the spouse making a contribution to a Roth IRA or a deductible contribution to a nonRoth IRA.
- (c) *Collectibles.* If the Deemed IRA Trust acquires collectibles within the meaning of Section 408(m) of the Code after December 31, 1981, Deemed IRA Trust assets will be treated as a distribution in an amount equal to the cost of such collectibles.

- (d) *Life Insurance Contracts.* No part of the Deemed IRA Trust funds will be invested in life insurance contracts.
- (e) *Distributions Before Death.* No amount is required to be distributed prior to the death of the Employee for whose benefit the account was originally established.
- (f) *Minimum Required Distributions.*
 - (1) Notwithstanding any provision of this IRA to the contrary, the distribution of the Employee's interest in the account shall be made in accordance with the requirements of Section 408(a)(6) of the Code, as modified by section 408A(c)(5), and the regulations thereunder, the provisions of which are herein incorporated by reference. If distributions are made from an annuity contract purchased from an insurance company, distributions thereunder must satisfy the requirements of section 1.401(a)(9)-6T of the Temporary Income Tax Regulations (taking into account Section 408A(c)(5) of the Code) (or Section 1.401(a)(9)-6 of the Income Tax Regulations, as applicable), rather than the distribution rules in paragraphs (2), (3) and (4) below.
 - (2) Upon the death of the Employee, his or her entire interest will be distributed at least as rapidly as follows:
 - (i) If the Beneficiary is someone other than the Employee's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the year of the Employee's death, over the remaining life expectancy of the Beneficiary, with such life expectancy determined using the age of the beneficiary as of his or her birthday in the year following the year of the Employee's death, or, if elected, in accordance with paragraph (2)(iii) below.
 - (ii) If the Employee's sole Beneficiary is the Employee's surviving spouse, the entire interest will be distributed starting by the end of the calendar year following the calendar year of the Employee's death (or by the end of the calendar year in which the Employee would have attained age 70½, if later), over such spouse's life, or, if elected, in accordance with paragraph (2)(iii) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's Beneficiary's remaining life expectancy determined using such Beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with paragraph (2)(iii) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.
 - (iii) If there is no Beneficiary, or if applicable by operation of paragraph (2)(i) or (2)(ii) above, the entire interest will be distributed the end of the calendar year containing the fifth anniversary of the Employee's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under paragraph 2(ii) above).
 - (iv) The amount to be distributed each year under paragraph (2)(i) or (ii) is the quotient obtained by dividing the value of the IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Section 1.401(a)(9)-9 of the Income Tax Regulations. If distributions are being made to a surviving spouse as the sole Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's age in the year specified in paragraph (2)(i) or (ii) and reduced by 1 for each subsequent year.

- (3) The “value” of the IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of Section 1.408-8 of the Income Tax Regulations.
- (4) If the sole Beneficiary is the Employee’s surviving spouse, the spouse may elect to treat the IRA as his or her own IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the IRA or fails to take required distributions as a Beneficiary.
- (g) *Nonforfeitable.* The interest of an Employee in the balance in his or her account is nonforfeitable at all times.
- (h) *Reporting.* The Deemed IRA Trustee of a Deemed Roth IRA shall furnish annual calendar-year reports concerning the status of the Deemed IRA account and such information concerning required minimum distributions as is prescribed by the Commissioner of Internal Revenue.
- (i) *Substitution of Deemed IRA Trustee.* If the Deemed IRA Trustee is a non-bank trustee or custodian, the non-bank trustee or custodian shall substitute another trustee or custodian if the non-bank trustee or custodian receives notice from the Commissioner of Internal Revenue that such substitution is required because it has failed to comply with the requirements of Section 1.408-2(e) of the Income Tax Regulations and Section 1.408-2T of the Income Tax Regulations.

Article X. Non-Assignability

10.01 General. Except as provided in Article VIII and Section 10.02, no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights are expressly declared to be non-assignable and non-transferable.

10.02 Domestic Relations Orders.

- (a) *Allowance of Transfers:* To the extent required under a final judgment, decree, or order (including approval of a property settlement agreement) that (1) relates to the provision of child support, alimony payments, or marital property rights and (2) is made pursuant to a state domestic relations law, and (3) is permitted under Sections 414(p)(11) and (12) of the Code, any portion of a Participant’s Account may be paid or set aside for payment to a spouse, former spouse, child, or other dependent of the Participant (an “Alternate Payee”). Where necessary to carry out the terms of such an order, a separate Account shall be established with respect to the Alternate Payee who shall be entitled to make investment selections with respect thereto in the same manner as the Participant. Any amount so set aside for an Alternate Payee shall be paid in accordance with the form and timing of payment specified in the order. Nothing in this Section shall be construed to authorize any amount to be distributed under the Plan at a time or in a form that is not permitted under Section 457(b) of the Code and is explicitly permitted under the uniform procedures described in Section 10.2(d) below. Notwithstanding the foregoing sentence, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State, then the amount of the Participant’s Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. Any payment made to a person pursuant to this Section shall be reduced by any required income tax withholding.
- (b) *Release from Liability to Participant:* The Employer’s liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to an Alternate Payee to paragraph (a) of this Section and the Participant and his or her Beneficiaries shall be deemed to have released the Employer and the Plan Administrator from any claim with respect to such amounts.

- (c) *Participation in Legal Proceedings:* The Employer and Administrator shall not be obligated to defend against or set aside any judgment, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer or Administrator to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer and Administrator shall be authorized to disclose information relating to the Participant's Account to the Alternate Payee (including the legal representatives of the Alternate Payee), or to a court.
- (d) *Determination of Validity of Domestic Relations Orders:* The Administrator shall establish uniform procedures for determining the validity of any domestic relations order. The Administrator's determinations under such procedures shall be conclusive and binding on all parties and shall be afforded the maximum amount of deference permitted by law.

10.03 IRS Levy. Notwithstanding Section 10.01, the Administrator may pay from a Participant's or Beneficiary's Account balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.04 Mistaken Contribution. To the extent permitted by applicable law, if any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

10.05 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such persons as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

10.06 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer or Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guarantee Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust shall continue to hold the benefits due such person.

Article XI. Relationship to Other Plans and Employment Agreements

This Plan serves in addition to any other retirement, pension, or benefit plan or system presently in existence or hereinafter established for the benefit of the Employer's employees, and participation hereunder shall not affect benefits receivable under any such plan or system. Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between any Participant and the Employer or to give any Participant the right to be retained in the employ of the Employer. Nor shall anything herein be construed to modify the terms of any employment contract or agreement between a Participant and the Employer.

Article XII. Amendment or Termination of Plan

The Employer may at any time amend this Plan provided that it transmits such amendment in writing to the Administrator at least 30 days prior to the effective date of the amendment. The consent of the Administrator shall not be required in order for

such amendment to become effective, but the Administrator shall be under no obligation to continue acting as Administrator hereunder if it disapproves of such amendment.

The Administrator may at any time propose an amendment to the Plan by an instrument in writing transmitted to the Employer at least 30 days before the effective date of the amendment. Such amendment shall become effective unless, within such 30-day period, the Employer notifies the Administrator in writing that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

The Employer may at any time terminate this Plan. In the event of termination, assets of the Plan shall be distributed to Participants and Beneficiaries as soon as administratively practicable following termination of the Plan. Alternatively, assets of the Plan may be transferred to an eligible deferred compensation plan maintained by another eligible governmental employer within the same State if (a) all assets held by the Plan (other than Deemed IRAs) are transferred; (b) the receiving plan provides for the receipt of transfers; (c) the Participants and Beneficiaries whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and (d) the Participants or Beneficiaries whose deferred amounts are being transferred is not eligible for additional annual deferrals in the receiving plan unless the Participants or Beneficiaries are performing services for the employer maintaining the receiving plan.

Except as may be required to maintain the status of the Plan as an eligible deferred compensation plan under Section 457(b) of the Code or to comply with other applicable laws, no amendment or termination of the Plan shall divest any Participant of any rights with respect to compensation deferred before the date of the amendment or termination.

Article XIII. Applicable Law

This Plan and Trust shall be construed under the laws of the state where the Employer is located and is established with the intent that it meet the requirements of an “eligible deferred compensation plan” under Section 457(b) of the Code, as amended. The provisions of this Plan and Trust shall be interpreted wherever possible in conformity with the requirements of that Section of the Code.

In addition, notwithstanding any provision of the Plan to the contrary, the Plan shall be administered in compliance with the requirements of Section 414(u) of the Code.

Article XIV. Gender and Number

The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where the context requires otherwise.

DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May, 2001, by Vantage Trust Company, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

- (a) *Incorporation of ICMA Declaration by Reference; ICMA By-Laws.* Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

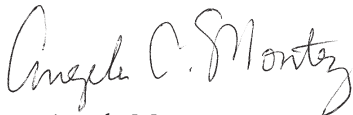
1. any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
 2. all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.
- (b) *Compliance with Revenue Procedure 81-100.* The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:
1. Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
 2. Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.
 3. In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.

4. In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.
- (c) *Governing Law.* Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.
- (d) *Judicial Proceedings.* The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY

By:



Name: Angela Montez

Title: Assistant Secretary

ICMA-RC Services LLC, a wholly owned broker-dealer subsidiary of ICMA-RC, member FINRA/SIPC.



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