



**TOWN OF OCCOQUAN**  
Circa 1734 • Chartered 1804 • Incorporated 1874

314 Mill Street  
PO BOX 195  
Occoquan, VA 22125  
(703) 491-1918  
[www.OccoquanVA.gov](http://www.OccoquanVA.gov)  
[info@occoquanva.gov](mailto:info@occoquanva.gov)

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**Occoquan Town Council**  
**Regular Meeting**  
**February 7, 2017 | 7:00 p.m.**

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Citizens' Time** - Members of the public may, for three minutes, present for the purpose of directing attention to or requesting action on matters not included on the prepared agenda. These matters shall be referred to the appropriate town official(s) for investigation and report. Citizens may address issues as they come up on the agenda if advance notice is given during 'Citizens' Time'.
4. **Hearing on Miller Brothers' Claim for Extended General Conditions Relating to Delays in Construction Contract at River Mill Park**
5. **Approval of Minutes**
  - a. January 3, 2017 Regular Meeting Minutes
  - b. January 17, 2017 Work Session Meeting Minutes
6. **Councilmember Reports**
7. **Mayor's Report**
8. **Staff Reports**
  - a. Town Attorney
  - b. Town Engineer
  - c. Building Official
  - d. Town Manager
  - e. Town Treasurer
  - f. Chief of Police
  - g. Boards and Commissions
9. **Regular Business**
  - a. Request to Approve Revised Rivertown Overlook Plat
  - b. Request to Award Contract for Drain and Trail Installation at River Mill Park
  - c. Request to Approve an MOU for the NOVA Arts and Cultural District

**Portions of this meeting may be held in closed session pursuant to the Virginia Freedom of Information Act.**  
*A copy of this agenda with supporting documents is available online at [www.occoquanva.gov](http://www.occoquanva.gov).*

- d. Request to Approve Certified Planning Commission Training
- e. Request to Appoint Representative to Board of Zoning Appeals

**10. Closed Session**

**11. Adjournment**



**OCCOQUAN TOWN COUNCIL**  
**Regular Meeting Minutes - DRAFT**  
**Town Hall - 314 Mill Street, Occoquan, VA 22125**  
**Tuesday, January 3, 2017**  
**7:00 p.m.**

**Present:** Mayor Liz Quist, Vice Mayor Pat Sivigny, Councilmembers Jim Drakes, Matthew Dawson, Cindy Fithian, and Joe McGuire

**Staff:** Kirstyn Jovanovich, Town Manager; Martin Crim, Town Attorney; Bruce Reese, Town Engineer; Billy Flynn, The Engineering Groupe; Chris Coon, Town Clerk; Adam Linn, Interim Chief of Police

**1. Call to Order**

Mayor Quist called the meeting to order at 7:00 p.m.

**2. Pledge of Allegiance**

**3. Citizens Time**

Jamaal Speights, 1447 Occoquan Heights Ct., stated that he recently moved into Occoquan and he has observed speeding on Washington Street. He stated that his favorite cat was hit by a car on Washington Street. He stated that with all of the activity on Washington, it makes sense to have a speed bump where the crosswalk is and possibly two additional speed bumps at Occoquan Heights Court and Washington Square. He also states that the sidewalk by Mom's Apple Pie needs a guardrail between the street and the sidewalk.

**4. Approval of Minutes**

It was moved to approve the minutes of the December 6, 2016 Regular Meeting.

**A motion was made by Councilmember Drakes seconded by Councilmember Fithian that the Action Item be approved. The motion carried by poll vote, unanimous.**

**5. Councilmember Reports**

Councilmember Drakes stated that the Budget Committee met on December 16, 2016 and the progress made will be presented at the Town Council Work Session.

Councilmember Dawson stated that the ARB had no meeting in December.

**6. Mayor's Report**

Mayor Quist stated that she is continuing to work towards having the proffers removed from the Tanyard Hill property so that the Town can move forward with signage and trail installation.

**7. Staff Reports**

**A. Town Attorney:** Mr. Crim, Town Attorney, reported on the following:

- i. There has been no activity on the Kiely matter since the last meeting. The petition for appeal from the State Technical Review Board will be sent shortly. When that petition is received, Mr. Crim will file a response with the Circuit Court.
  - ii. There is a dispute with the construction contract for River Mill Park Phase I with Miller Brothers over claims of delay damages. Miller Brothers requested that the Mayor respond to their claim. If it is not resolved, then the matter will come to the full Council.
- B. Town Engineer:** Mr. Reese, Town Engineer, submitted a report as part of the meeting agenda. Billy Flynn, Engineering Groupe, was in attendance to answer questions regarding the River Mill Park project. No questions were received.
- C. Building Official:** Mr. Barbeau was not present, however, his report was submitted as part of the meeting agenda. No questions were received.
- D. Town Manager:** Ms. Jovanovich submitted a manager's report as part of the agenda. She added that the town's Welcome Sign at the corner of Commerce and Washington Streets was hit by a vehicle on Sunday, January 1, 2017, and staff is working with insurance to have the sign repaired and reinstalled.
- E. Town Treasurer:** Ms. Breeding was not present, however, her report was submitted as part of the meeting agenda.
- Councilmember Drakes inquired about the meals tax audit. Ms. Jovanovich stated that a Meals Tax Audit has not been performed by the town in the past. She stated that it is a priority and should be performed annually by the Town Treasurer.
- Councilmember Drakes inquired about the delinquency for three years on Real Estate Taxes. Ms. Jovanovich stated that there are several steps the town is able to take to collect the delinquent funds. Previously, the Treasurer has reached out to Prince William County regarding delinquent properties, and when the County begins their collection process on the property, the Town can ask the County to include the cost owed to the Town.
- F. Chief of Police:** Interim Chief Linn provided his December 2016 report with the agenda packet. No questions were received.

## 8. Regular Business

### **8A. Request to Award Contract for Town Recodification and Zoning and Subdivision**

It was moved to approve a contract with Burns and McDonnell and set a not to exceed amount of \$33,022 for the Zoning and Subdivision Ordinance Update project utilizing FY 2017 CIP funding. It was also moved to approve a contract with Legal Publishing Corporation and set a not to exceed amount of \$10,000 for the Town Code Recodification project utilizing FY 2018 CIP funding, pending Town Council approval of the FY 2018 Budget.

**A motion was made by Councilmember Dawson, seconded by Councilmember Drakes that the Action Item be approved. The motion carried by poll vote, unanimous.**

**8B. Request to Appropriate Funding for River Mill Park Project Overage**

It was moved to appropriate a not to exceed amount of \$60,000 from FY 2017 Capital Improvement Projects for the completion and close out of the River Mill Park project.

**A motion was made by Vice Mayor Sivigny, seconded by Councilmember Fithian that the Action Item be approved. The motion carried by poll vote, unanimous.**

**8C. Request to Approve Parking Restrictions on West Locust Street**

Ryan Somma, 109 Washington Square Ct., stated that he lives in the area and expressed that there is a need for parking. He requested that Town Council consider restoring parking in other areas near West Locust Street if they decide to eliminate parking on West Locust Street.

It was moved to prohibit on-street parking on the north side of West Locust Street between 110 and 208 West Locust Street and designate a ten-foot clear area on both sides of the existing driveway on the south side to prohibit parking and direct the Chief of Police to coordinate the installation of appropriate and adequate no parking signage at a cost not to exceed \$800.

**A motion was made by Vice Mayor Sivigny, seconded by Councilmember McGuire that the Action Item be approved. The motion carried by poll vote, 4-1, with Councilmember Fithian voting Nay.**

**8D. Request to Approve Amendment to Chapter 62 of the Town Code, Prohibiting the Blocking of Intersections**

It was moved to adopt the proposed Ordinance to amend Chapter 62 of the Town Code to prohibit the blocking of intersections within the Town.

**A motion was made by Councilmember McGuire, seconded by Councilmember Dawson that the Action Item be approved. The motion carried by poll vote, unanimous.**

**8E. Request to Approve Employee Health Insurance Stipend**

It was moved to approve and appropriate a not to exceed amount of \$1,300 to provide a monthly stipend to pay 80% of a monthly health insurance premium for the Town Clerk for the period of March 1, 2017 through June 30, 2017.

**A motion was made by Councilmember Fithian, seconded by Councilmember Drakes that the Action Item be approved. The motion carried by poll vote, unanimous.**

**8F. Request to Set Policy on Police Take Home Vehicle**

It was moved to set a policy to permit the use of a take home vehicle for the Chief of Police.

**A motion was made by Councilmember Fithian, seconded by Councilmember Drakes that the Action Item be approved. The motion carried by poll vote, 2-Ayes**

**Councilmember Drakes and Fithian; 2-Nays Vice Mayor Sivigny and Councilmember McGuire; 1-Abstain Councilmember Dawson; Tie Vote Requires Mayor vote; Mayor Quist voted Aye.**

**8G. Request to Appoint Town Representative to the Bull Run ASAP Policy Board**

It was moved to reappoint auxiliary police officer Sheldon Levi to the Bull Run ASAP Policy Board until such time as his appointment expires or the Council deems otherwise.

**A motion was made by Councilmember Drakes, seconded by Councilmember Fithian that the Action Item be approved. The motion carried by poll vote, unanimous.**

**9. Adjournment**

The meeting was adjourned at 8:26 p.m.

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Christopher Coon  
Town Clerk

DRAFT



**OCCOQUAN TOWN COUNCIL**  
**Work Session Minutes - DRAFT**  
**Town Hall - 314 Mill Street, Occoquan, VA 22125**  
**Tuesday, January 17, 2017**  
**7:00 p.m.**

**Present:** Mayor Liz Quist, Vice Mayor Pat Sivigny, Councilmembers Jim Drakes, Cindy Fithian, and Joe McGuire

**Absent:** Councilmember Matthew Dawson

**Staff:** Kirstyn Jovanovich, Town Manager; Abigail Breeding, Town Treasurer; Christopher Coon, Town Clerk; Adam Linn, Interim Chief of Police

## **1. Call to Order**

Mayor Quist called the meeting to order at 7:00 p.m.

## **2. Regular Items**

### **A. Mamie Davis**

Ms. Jovanovich stated that a dump truck had damaged the entrance of Mamie Davis Park including masonry, iron work, and landscaping. She inquired about whether or not Council would like the entrance rebuilt to its original condition or if they would like to widen the entrance to the park and adjust the landscaping. After discussion, Ms. Jovanovich stated she would have the landscaping contractor develop a recommendation to discuss with Council at a later date.

### **B. FY 2018 Budget Work Session**

Ms. Jovanovich stated that the numbers presented are preliminary and will most likely not be included in the final proposed budget document. She stated that the Budget Schedule is working towards having the Budget adopted during the May 2, 2017 Meeting.

The Town Council priorities, which were agreed upon during the November 2016 meeting, were used as the basis for the budget's development. There was an additional priority added during that meeting, Public Safety, and the Riverwalk goal was adjusted to include its usage.

She stated that the item to be discussed this evening is the General Fund, including revenue and expenditure estimates. Ms. Jovanovich stated that there is a plan to have a parking and traffic study conducted this fiscal year. This study will help provide insight that can be used for the Community Plan, scheduled for Fiscal Year 2018.

One of the Town Council priorities is pedestrian safety, with focus placed on improvements to town intersections to install crosswalks. Ms. Jovanovich and Mr. Reese have met with VDOT in regards to available grant funding for various road improvements and stated that there are multiple grant opportunities that can assist with improving town intersections and other pedestrian improvements.

In FY2018, the Historic Preservation and Town Appearance goal will focus on the gaslights throughout Town. Ms. Jovanovich stated that the Town Council will have to decide to either have the gaslights repaired/renovated or have them converted to electric LED lights. The Council asked Ms. Jovanovich to identify the cost of converting the gaslights to electric and present that cost at the next Budget Work Session.

Ms. Jovanovich stated that the Stormwater management system needs to be mapped concerning both public and private systems. Once mapped, the Town could then develop maintenance and capital plans for the system. This would also allow the Town to be able to ensure private entities are maintaining their systems accordingly and require annual maintenance certifications for those Stormwater management systems on private property.

Ms. Jovanovich stated that the information presented this evening was prepared maintaining all of the current tax rates and fee structures.

The Council discussed upcoming general needs and capital programming for FY 2018 and beyond. Ms. Jovanovich discussed the details of the proposed revenues and how they were calculated.

Ms. Jovanovich stated that the next budget work session is scheduled for February 21, 2017.

### **3. Adjournment**

The meeting was adjourned at 8:09 p.m.

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Christopher Coon  
Town Clerk



# TOWN OF OCCOQUAN

## TOWN COUNCIL MEETING

### Agenda Communication

<b>4. Hearings</b>	<b>Meeting Date:</b> February 7, 2017
<b>4. Hearing on Miller Brothers' Claim for Extended General Conditions Relating to Delays in Construction Contract at River Mill Park</b>	

**Explanation and Summary:**

Miller Brothers Inc. claims to have suffered expenses due to delays in the construction of the River Mill Park facilities. The delays did occur, but the contract provides that the sole remedy for delays is an extension of time, which has already been granted. Miller Brothers has not explained why it believes this contract provision does not apply.

Under the Town's contract with Miller Brothers Inc. for construction of the bathroom and related improvements at River Mill Park, Miller Brothers cannot pursue any lawsuit against the Town until it first brings its claim to the Town in a two-step process. The first step is to bring the claim to the Town Council's designee, which for this contract is Mayor Quist. That step has been taken, and Mayor Quist has denied the request. The second step is to bring the claim to the Town Council, which must consider the appeal and render a written decision within forty days. The forty day period began to run on January 10, 2017, so the Town must respond by February 19, 2017.

**Town Attorney's Recommendation:** Hear the Miller Brothers claim in open session and discuss it in closed session with legal counsel under Virginia Code § 2.2-3711 A.7.

**Engineer's Recommendation:** Concur with Town Attorney's recommendation.

**Town Manager's Recommendation:** Concur with Town Attorney's recommendation.

**Cost and Financing:** The amount of the claim is \$19,044.30.

**Account Number:** TBD

**Proposed/Suggested Motion:**

(After closed session) "I direct the Town Attorney to convey the Town Council's response to Miller Brothers Inc. in writing no later than February 19, 2017."

OR

Other action Council deems appropriate.

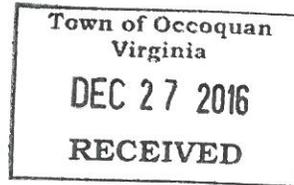
**Attachments: (3)** December 22, 2016 Letter covering Change Proposal 12Rev, with Attachments  
January 5, 2017 Letter response from Mayor Quist  
January 10, 2017 Letter appealing to the Town Council, with attachments



**Miller Brothers, Inc.** (540) 364-6300 Phone  
**General Contractors** (540) 364-6307 Fax  
7587 Capitol Way  
Marshall, VA 20115  
www.millerbrothersinc.com

December 22, 2016

Ms. Elizabeth A.C. Quist  
Mayor  
Town of Occoquan  
314 Mill Street  
P.O. Box 195  
Occoquan, VA 22125



VIA: Certified U.S. Mail **7013 3020 0001 4261 5153**

Dear Ms. Quist;

Miller Brothers has been informed that you are the Town Council's Designee for the River Mill Park Phase I construction project. As such we are submitting a copy of change proposal 12Rev. for your review and initial determination as required by paragraph VI.C. 2. of the contract.

Please feel free to contact me if you have any questions or wish to discuss this matter.

Respectfully,

A handwritten signature in blue ink, appearing to read 'John Bedenbaugh'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Bedenbaugh



Miller Brothers, Inc.  
 General Contractors  
 7587 Capitol Way  
 Marshall, Virginia 20115  
 T: 540.364.6300  
 F: 540.364.6307  
 www.millerbrothersinc.com

**Change Proposal**

**To:** ENGINEERING GROUPE INC; THE  
 13580 Groupe Drive  
 Suite 301  
 Woodbridge, VA 22192  
 Ph: 703-670-0985 Fax: 703-670-7769

**Number:** 12Rev.  
**Date:** 11/2/16  
**Job:** 15-006 River Mill Park Phase I  
**Phone:** 703-491-1918

**Description:** Delays caused by VDOT  
 Reason: Unforeseen Condition

We are pleased to offer the following specifications and pricing to make the following changes:

The delays caused by the VDOT review of the bridge railing shop drawings, retaining wall re-design, and lack of permanent power extended the project past it's original completion date.

The costs included in this change proposal represent the actual general condition costs incurred from January 1, 2016 rather than the calendar date costs that were previously provided.

The project continues to be delayed by VDOT issues with the bridge lighting and MBI reserves it rights to future extended general conditions to be determined at a later date.

Work performed by us:					
Description		Quantity	Unit	Unit Price	Price
PROJECT MANAGER	Labor				\$4,838.00
PROJECT COORDINATORS	Labor				\$709.00
SUPERVISION	Labor				\$10,083.00
GENERAL LABOR	Labor				\$904.00
TEMP WATER	Other				\$115.00
TEMP TOILET	Other				\$314.00
GENERAL CLEAN UP	Labor				\$264.00
FUEL	Material				\$29.00
COURIER SERVICES	Material				\$57.00
				<b>Subtotal:</b>	<b>\$17,313.00</b>
				<b>Subtotal:</b>	<b>\$17,313.00</b>
		O&P	\$17,313.00	10.00%	\$1,731.30
				<b>Total:</b>	<b>\$19,044.30</b>



Miller Brothers, Inc. T: 540.364.6300  
General Contractors F: 540.364.6307  
7587 Capitol Way  
Marshall, Virginia 20115 www.millerbrothersinc.com

## *Change Proposal*

**To:** ENGINEERING GROUPE INC; THE  
13580 Groupe Drive  
Suite 301  
Woodbridge, VA 22192  
Ph: 703-670-0985 Fax: 703-670-7769

**Number:** 12Rev.  
**Date:** 11/2/16  
**Job:** 15-006 River Mill Park Phase I  
**Phone:** 703-491-1918

Please indicate your approval and acceptance of this proposal by issuing a formal change order and signing below. If you have any questions, please contact us at .

Submitted by:

Approved by: \_\_\_\_\_  
Date: \_\_\_\_\_

Cc: Tammy Heflin (Miller Brothers Inc)

The prices quoted in this proposal are good until 11/9/2016



**Miller Brothers, Inc.** (540) 364-6300 Phone  
**General Contractors** (540) 364-6307 Fax  
7587 Capitol Way  
Marshall, VA 20115  
[www.millerbrothersinc.com](http://www.millerbrothersinc.com)

10/26/2016

The Engineering Groupe  
Stan Orndorff  
13580 Groupe Drive  
Suite 301  
Woodbridge, VA 22192

River Mill Park Change Proposal #12 Delay's

Dear Mr. Orndorff,

In response to our meeting to discuss the costs for our change proposal #12 submitted on 5/17/16, Miller Brothers has completed a review of the delays on the project and analyzed the actual impact to the duration and costs of the project. In our analysis we went back and reviewed the original as planned construction schedule with the schedule updates and actual completion dates.

#### **Building Foundation**

The original construction schedule showed a 10/6/15 start date and duration of two days for the excavation of the foundation. The original logic of the schedule was to complete the installation of the conduit for Verizon and Cox so that the lines could be moved. This was delayed by the rock encountered in the excavation for the conduit. There was an existing pole that would not allow for the excavation of the building foundation, a decision was made to install a temporary pole outside of the excavation area for the new building and then shift the lines to this temporary pole.

The temporary pole was set and the existing lines were shifted on 10/12/15 and the existing pole was removed on 10/13/15 allowing for the excavation of the basement to be completed on 10/16/15. This resulted in a delay of 9 days in the completion of the foundation excavation task that Miller Brothers is entitled to extended general conditions for. Miller Brothers has a daily general condition cost of \$445/day based on calendar days. Since it is not possible to quantify the actual costs associated with this delay we feel that we should be compensated at the \$445/day rate. The cost for this would then be \$4,005.00 excluding OH & P.

#### **Bridge Railing & Building Power**

The bridge railing revisions and extensive review time required by VDOT were the longest item on the critical path to completion of the project. There were also delays to the final completion of the building that were a result of the change from three phase to single phase power and Dominion Powers ability to provide power to the building, but these were not the longest path of the delay and project completion only for the completion of the building.

The building was substantially complete on 2/22/16 when the roof was finished. Permanent power was provided by Dominion on 4/11/16. After permanent power was provided there was work required by the MEP trades to complete the tie in and start up of their systems.

Below is a brief timeline for the bridge railing submission and review.

1. Initial Submission of bridge railing shop drawings 9/24/15
2. Response from VDOT 10/7/15. The response indicated a change in railing type. TEG and MBI discussed the changes and it is MBI's understanding that TEG was discussing the proposed changes with VDOT since they were going to add costs to the project. MBI was authorized to revise shop drawings on 11/17/18.

3. Revised railing shop drawings submitted 12/11/15.
4. TEG comments addressed and shop drawings updated, submitted to TEG and VDOT 12/24/15.
5. VDOT comments received 1/29/16
6. Revised shop drawings sent to VDOT 2/9/16
7. VDOT approval 2/18/16

It is important to note that the "revisions" required by VDOT comments were for requirements not shown on the permitted set of drawings which had already been approved by VDOT.

The bridge railing installation was completed on 5/23/16. There were several inspection walks with VDOT and several punch list items that were generated during these walks, VDOT's final acceptance of the bridge was on 5/31/16.

Miller Brothers is able to quantify the actual general conditions costs for the time from 2/22/16 to the end of the project through our accounting software. The actual extended general condition costs incurred by Miller Brothers for this time period are Labor (Supervision/PM/PC/General Labor), Temporary Utilities, Temporary Toilets, Fuel, and Courier Services. The direct cost for these extended general conditions is \$13,307.66 excluding OH & P. We have included a cost report detailing these costs with this letter.

Below you will find a summary of the costs associated with these delays. If after your review you agree with these costs we can prepare a REVISED change proposal 10 for your approval. If during your review you have any questions or need any additional information, please do not hesitate to contact me.

Building Foundation	\$4,005.00
Bridge Railing	\$13,307.66
Subtotal	\$17,312.66
OH & P 10%	\$1,731.26
<b>Total</b>	<b>\$19,043.92</b>

Sincerely,



**Miller Brothers, Inc.**  
**John Bedenbaugh**

Encl: As indicated

Cc: Mr. Billy Flynn  
Ms. Kirstyn Jovanovich

# Cost Code Summary as of Specific Date

Hiller Brothers Inc.

10-05-2016

Page 5

As of: 10-05-2016

15-006 River Mill Park Phase I

Project Manager: JOHN BEDENBAUGH

	<u>Original Estimate</u>	<u>Approved Changes</u>	<u>Total Estimate</u>	<u>Total Committed</u>	<u>JTD Costs</u>	<u>Remaining Estimate</u>
<b>GENERAL CONDITIONS</b>						
1-090 PROJECT MANAGER					3,538	3,538-
1-092 PROJECT COORDINATORS					504	504-
1-100 SUPERVISION					7,583	7,583-
1-101 GENERAL LABOR					904	904-
1-105 TEMP WATER					115	115-
1-106 TEMP TOILET					314	314-
1-132 DUMPSTER					647	647-
1-133 GENERAL CLEAN UP					264	264-
1-138 FUEL					29	29-
1-145 PUNCH LIST					874	871-
1-160 FINAL CLEAN					497	197-
1-301 COURIER SERVICES					57	57-
<b>Primary Totals</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b><del>45,022</del></b>	<b>15,022-</b>
<b>River Mill Park Phase I Totals</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b><del>45,022</del></b>	<b>15,022-</b>
					13,307	

## John Bedenbaugh

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**From:** John Bedenbaugh  
**Sent:** Wednesday, February 03, 2016 3:12 PM  
**To:** 'sOrndorff@enggroupe.com'  
**Cc:** RiverMillPark@enggroupe.com  
**Subject:** River Mill PArk January Schedule Update  
**Attachments:** RMP January Schedule Update.pdf; RMP Dominion Estimated Completion.pdf; SKMBT\_C552D16020311230.pdf

Stan,

Please see the attached January schedule update as well as a copy of the delay notification that we discussed during last week's meeting. I have also attached the current electrical status from the Dominion Power website.

Best Regards,

John Bedenbaugh



7587 Capitol Way, Marshall, VA 20115

Tel 540-364-6300

Cell 540 878-8943

Fax 540-364-6307

Email: [jbedenbaugh@millerbrothersinc.com](mailto:jbedenbaugh@millerbrothersinc.com)

[www.millerbrothersinc.com](http://www.millerbrothersinc.com)



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February 3, 2016

Mr. Stan Orndorff  
The Engineering Groupe  
13580 Groupe Drive, Suite 301  
Woodbridge, VA 22192

**Delay Notice River Mill Park – Occoquan, VA**

Dear Mr. Orndorff;

The completion of this project is being delayed by issues outside of our control; approval of the bridge railing by VDOT and the connection of permanent power by Dominion Power. Miller Brothers anticipates completion of contract work not affected by these to items by the end of next week.

The bridge railing has been tracked as a fragnet in the project schedule beginning with the November schedule update and notification of the potential delay was sent via e-mail with the November schedule update.

The issue with Dominion Power is being tracked as a fragnet in the project schedule beginning with the December schedule update and notification of the potential delay was sent via e-mail with the December schedule update.

Fabrication of the bridge railing cannot begin until VDOT approval is received, once fabrication and powder coating is complete the railing can be installed. The installation of the railing must occur concurrently with the installation of the bridge conduit to allow for the safe installation of both. Upon completion of the railing and conduit installation the Cox and Verizon lines can be relocated and temporary pole removed. Upon removal of the temporary pole the sidewalk can be completed.

We received Revised electrical plans on 1/19/16 that indicate the change from 3 phase power to single phase power. Currently we are evaluating these changes and will be submitting a change proposal for the additional costs shortly. Upon approval off the change proposal we will complete the required work for the change from 3 phase to single phase. At this point we will be ready for Dominion to provide permanent power and at that time we will be able to complete the electrical and mechanical start ups. Dominion Power is currently showing that the service has not been designed yet and is at the stage where they are still waiting for customer input to begin the design process. They are showing an anticipated completion date for their work of 2/19/16, which is the same date they showed on 12/15/15, it is unclear if this date is accurate since it appears that Dominion has not completed any additional work on the design since 12/15/15.

Miller Brothers will be exposed to extended general conditions in order to complete this project and is entitled to compensation for these costs. We will be submitting a change proposal for extended general conditions for February for approval and incorporation into a change order so that these additional costs can be included in our February requisition for payment.

Should you have any questions or wish to discuss this, please do not hesitate to contact me.

Respectfully,

John Bedenbaugh



Search

Work Request

### Work Request Basic Information

To track a **Work Request**, enter the Work Request Number and click the Go button.

**Work Request Number:** \*  
10017573

Clear Go

\* Required

### Work Request Information

**Work Request No:** 10017573

#### Dominion Contact Information

**Name:** David L Henderson \*  
**Email:** David.L.Henderson@dom.com  
**Phone:** (703) 490 - 2835  
**Dominion Office:** Woodbridge Construction

\* If the Date of Information requires the user enter work request number in the Work Request field.

#### Work Request Location Address

**Work Location:** OCCOQUAN VA 22125

#### Work Request General Information

**Work Request Type:** Municipal New Underground  
**Work Request Status:** SETUP

#### Work Request Tasks Status

Dominion No.	Description	Date Completed
1010	WORK REQUEST INITIATED	<input checked="" type="checkbox"/> 12/10/2015
1030	INFORMATION REQUIRED FOR DESIGN RECEIVED	<input type="checkbox"/>
4010	DESIGN/PROJECT APPROVED	<input type="checkbox"/>
6030	Receive UG agreement	<input type="checkbox"/>
6030	Receive cost to customer (ccp)	<input type="checkbox"/>
6040	Receive letter of authorization (loa)	<input type="checkbox"/>
7005	Customer Confirmed Site Ready	<input type="checkbox"/>
7020	Work Schedule Established	<input type="checkbox"/>
9080	CONSTRUCTION COMPLETE	<input type="checkbox"/>

#### Work Request Dates

**\*\*Dominion's Scheduled Start:**      **Dominion's Scheduled Completion:**  
**Construction Complete Date:**      **Dominion's Projected Completion Date:** 02/26/2016  
**Work Request Cancel Date:** N/A      **Work Request Cancel Reason:** N/A

\*\* If the Date of Information requires the user enter work request number in the Work Request field.

Item No.	Description	Quantity	Unit	Start	End
1	REPAIR OF EXISTING CONTRACTOR	1	Sq Yd	10/21/13	10/21/13
2	MOBILIZATION	1	Day	10/21/13	10/21/13
3	MOBILIZATION	1	Day	10/21/13	10/21/13
4	MOBILIZATION	1	Day	10/21/13	10/21/13
5	MOBILIZATION	1	Day	10/21/13	10/21/13
6	MOBILIZATION	1	Day	10/21/13	10/21/13
7	MOBILIZATION	1	Day	10/21/13	10/21/13
8	MOBILIZATION	1	Day	10/21/13	10/21/13
9	MOBILIZATION	1	Day	10/21/13	10/21/13
10	MOBILIZATION	1	Day	10/21/13	10/21/13
11	MOBILIZATION	1	Day	10/21/13	10/21/13
12	MOBILIZATION	1	Day	10/21/13	10/21/13
13	MOBILIZATION	1	Day	10/21/13	10/21/13
14	MOBILIZATION	1	Day	10/21/13	10/21/13
15	MOBILIZATION	1	Day	10/21/13	10/21/13
16	MOBILIZATION	1	Day	10/21/13	10/21/13
17	MOBILIZATION	1	Day	10/21/13	10/21/13
18	MOBILIZATION	1	Day	10/21/13	10/21/13
19	MOBILIZATION	1	Day	10/21/13	10/21/13
20	MOBILIZATION	1	Day	10/21/13	10/21/13
21	MOBILIZATION	1	Day	10/21/13	10/21/13
22	MOBILIZATION	1	Day	10/21/13	10/21/13
23	MOBILIZATION	1	Day	10/21/13	10/21/13
24	MOBILIZATION	1	Day	10/21/13	10/21/13
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40	MOBILIZATION	1	Day	10/21/13	10/21/13
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42	MOBILIZATION	1	Day	10/21/13	10/21/13
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63	MOBILIZATION	1	Day	10/21/13	10/21/13
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65	MOBILIZATION	1	Day	10/21/13	10/21/13
66	MOBILIZATION	1	Day	10/21/13	10/21/13
67	MOBILIZATION	1	Day	10/21/13	10/21/13
68	MOBILIZATION	1	Day	10/21/13	10/21/13
69	MOBILIZATION	1	Day	10/21/13	10/21/13
70	MOBILIZATION	1	Day	10/21/13	10/21/13
71	MOBILIZATION	1	Day	10/21/13	10/21/13





# TOWN OF OCCOQUAN

*Circa 1734 • Chartered 1804 • Incorporated 1874*  
314 Mill Street • PO Box 195 • Occoquan, Virginia 22125  
(703) 491-1918 • Fax (571) 398-5016 • info@occoquanva.gov  
www.occoquanva.gov

**TOWN COUNCIL**  
Elizabeth A. C. Quist, Mayor  
Patrick A. Sivigny, Vice Mayor  
J. Matthew Dawson  
Jim Drakes  
Cindy Fithian  
Joe McGuire

**TOWN MANAGER**  
Kirstyn Barr Jovanovich

January 5, 2017

**BY CERTIFIED MAIL/FACSIMILE (540) 364-6307**

John Bedenbaugh  
Miller Brothers, Inc.  
7587 Capitol Way  
Marshall, Virginia 20115

Re: River Mill Park Phase I construction project  
Town of Occoquan  
Delay/Change Proposal

Dear Mr. Bedenbaugh,

I am writing to you in response to your letter dated December 22, 2016, and the Change Proposal dated November 2, 2016 which is attached thereto. In the Change Proposal, you state that “[t]he delays caused by the VDOT review of the bridge railing shop drawings, retaining wall re-design, and lack of permanent power extended the project past its original completion date.” You also mention that the project continues to be delayed by VDOT with regard to the bridge lighting. These concerns are also discussed in your letters dated February 3, 2016 and October 26, 2016, and I will address them to the extent that you are claiming a delay based on the information provided therein. The Town of Occoquan is not responsible for any delay caused by third parties or other circumstances outside of its control.

Bridge Railing

With regard to the bridge railing issue, your letter dated February 3, 2016 states that fabrication of the bridge railing could not begin until it was approved by VDOT. The delay regarding the bridge railing occurred as a result of VDOT’s review of the proposed bridge railing shop drawings and revisions, and was not caused by the Town of Occoquan. Therefore, the Town of Occoquan is not responsible for any costs or extended conditions associated with the “bridge railing” delay because the Town did not cause any such delay. The sole remedy under Section VII(A)(4) of the contract for such delay is an extension of time, which has already been granted.

Retaining Wall Re-Design

With regard to the retaining wall re-design, the re-design is mentioned in the Change Proposal dated November 2, 2016, but it is not mentioned in the February 3, 2016 letter or the October 26, 2016 letter. We are unaware of any delays to the critical path of the project that are

attributable to the wall re-design. The retaining wall re-design was for the mutual benefit of the contractor and the Town of Occoquan and therefore the Town is not responsible for any delays that may have resulted. If this were a valid basis for a delay claim, your sole remedy would be an extension of time, which has already been granted.

#### Power Connection

With regard to the power connection issue, this is solely the responsibility of Dominion Virginia Power. Therefore, the Town of Occoquan is not responsible for any costs or extended conditions associated with the "power connection" delay because the Town did not cause any such delay. Your sole remedy for this delay is an extension of time, which has already been granted.

#### Building Foundation and Conduit Installation

With regard to the building foundation and conduit installation issue, any such delay was caused by rock excavation which was not anticipated by Miller Brothers, Inc. There is no provision in the contract that shifts responsibility to the Town of Occoquan for rock excavation. The conduit installation process was substantially delayed because Miller Brothers, Inc. had to break through solid rock in order to complete the installation. A temporary pole was installed to keep the power and utilities flowing to the buildings while the permanent pole was being installed. Given this information, the presence of unanticipated rock is the cause of any such delay. However, the Town of Occoquan is not responsible for any costs or extended conditions associated with the "building foundation and conduit installation" delay because the Town did not cause any such delay. Your sole remedy, as noted, is an extension of time that has already been granted.

#### Bridge Lighting

With regard to the bridge lighting issue, the completion of the bridge lighting is being delayed as a result of VDOT review. The Town of Occoquan is not the cause of any such delay. Therefore, the Town of Occoquan is not responsible for any costs or extended conditions associated with the "bridge lighting" delay. As with the other claims for delay, your sole remedy is an extension, which has already been granted.

In summary, for the foregoing reasons the Town of Occoquan denies the Change Proposal from Miller Brothers, Inc. dated November 2, 2016.

Sincerely,



Elizabeth A.C. Quist, Mayor

cc: Martin Crim, Town Attorney  
Kirstyn Jovanovich, Town Manager  
Stan Orndorff, The Engineering Groupe



**Miller Brothers, Inc.**  
General Contractors  
7587 Capitol Way  
Marshall, VA 20115

(540) 364-6300 Phone  
(540) 364-6307 Fax  
[www.millerbrothersinc.com](http://www.millerbrothersinc.com)

January 10, 2017

Town Council  
Town of Occoquan  
C/O Mayor Elizabeth A. C. Quist  
314 Mill Street  
P.O. Box 195  
Occoquan, VA 22125

**VIA: Certified U.S. Mail 7015 0640 0006 1894 6106 & Facsimile 571-398-5016**

Dear Mayor Quist and Members of the Town Council;

Miller Brothers is in receipt of your letter dated 12/5/17. After review of your letter we are not in agreement with your determination as such, we are requesting that an appeal be submitted to the Town Council as required by paragraph VI.C.2 of the contract.

We feel that this decision is contrary to the language contained in change orders 1, 3, & 4 issued by the Town which contain the following language "Extended general conditions, if any shall be negotiated with closeout". The Miller Brother's change proposals that accompany these change orders clearly identify the delay and the impact caused to the schedule. Miller Brothers also has communications from The Engineering Groupe who the Town designated that Miller Brothers communicate with, that state they and the Town recognize there are additional general conditions. These e-mails further state that Miller Brothers is proceeding with the work in good faith while the extended general conditions are finalized.

#### **Bridge Railing**

The design change necessitated by VDOT's initial review of the shop drawings was caused by a errant design on the part of the Town's design professionals. Had the proper design been included with the bid and construction documents, the originally submitted shop drawings would have been able to have been approved by VDOT. The original shop drawing submission was submitted with plenty of time allowed for review, fabrication and installation. We disagree with your determination that under section VII A.4 the only remedy for this delay is an extension of time.

#### **Retaining Wall Re-Design**

The Town was made aware through The Engineering Groupe numerous times that potential delays to the project relating to the retaining wall re-design were being tracked. Please review Miller Brothers change proposal 3-R as well as Change Order 1 issued by the Town where Miller Brothers states that the retaining wall is delaying the project but is not currently the critical path of the project. It is false to state that the re-design was for the mutual benefit of the contractor and the Town. The Town included a design to modify the existing retaining wall in the bid documents. After construction commenced and the existing wall construction was investigated, it was determined that the existing wall was not constructed as the Town's design professionals assumed. This faulty assumption is what necessitated the re-design. We disagree with your determination that under section VII A.4 the only remedy for this delay is an extension of time.

**Power**

We do not agree with the position that the power connection delay was solely the responsibility of Dominion Power. The Town's design professionals designed the building for three phase power and Dominion does not have three phase power available at the project location. This was discovered when Miller Brothers began coordination with Dominion for the new power service. The errant design by the Town's design professionals caused the service to be re-designed, which included additional work by Miller Brothers. We disagree with your determination that under section VII A.4 the only remedy for this delay is an extension of time.

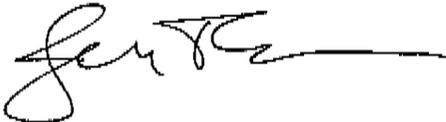
**Building Foundation & Conduit**

We agree that the presence of unanticipated rock is the cause for this delay however we do not agree that the Town is not responsible for this. The Town did not provide a geo-technical report with the bid documents and as such rock was not anticipated. We consider the rock to be an unforeseen condition and as such the responsibility of the owner. We disagree with your determination that under section VII A.4 the only remedy for this delay is an extension of time.

We respectfully ask to be informed when this matter will be placed on the Town Council's agenda so that we may attend the meeting and present our case.

Please feel free to contact me if you have any questions or wish to discuss this matter.

Respectfully,



Miller Brothers, Inc.  
John Bedenbaugh



Miller Brothers, Inc.  
 General Contractors  
 7587 Capitol Way  
 Marshall, Virginia 20115

T: 540.364.6300  
 F: 540.364.6307

www.millerbrothersinc.com

**Change Proposal**

To: ENGINEERING GROUPE INC; THE  
 13580 Groupe Drive  
 Suite 301  
 Woodbridge, VA 22192  
 Ph: 703-670-0985 Fax: 703-670-7769

Number: 12Rev.  
 Date: 11/2/16  
 Job: 15-006 River Mill Park Phase I  
 Phone: 703-491-1918

**Description:** Delays caused by VDOT

**Reason:** Unforeseen Condition

We are pleased to offer the following specifications and pricing to make the following changes:

The delays caused by the VDOT review of the bridge railing shop drawings, retaining wall re-design, and lack of permanent power extended the project past it's original completion date.

The costs included in this change proposal represent the actual general condition costs incurred from January 1, 2016 rather than the calendar date costs that were previously provided.

The project continues to be delayed by VDOT issues with the bridge lighting and MBI reserves it rights to future extended general conditions to be determined at a later date.

Work performed by us:

Description		Quantity	Unit	Unit Price	Price
PROJECT MANAGER	Labor				\$4,838.00
PROJECT COORDINATORS	Labor				\$709.00
SUPERVISION	Labor				\$10,083.00
GENERAL LABOR	Labor				\$904.00
TEMP WATER	Other				\$115.00
TEMP TOILET	Other				\$314.00
GENERAL CLEAN UP	Labor				\$264.00
FUEL	Material				\$29.00
COURIER SERVICES	Material				\$57.00
				<b>Subtotal:</b>	<b>\$17,313.00</b>
				<b>Subtotal:</b>	<b>\$17,313.00</b>
	O&P	\$17,313.00		10.00%	\$1,731.30
				<b>Total:</b>	<b>\$19,044.30</b>



Miller Brothers, Inc.  
General Contractors

T: 540.364.6300  
F: 540.364.6307

7587 Capitol Way  
Marshall, Virginia 20115

www.millerbrothersinc.com

**Change Proposal**

To: ENGINEERING GROUPE INC; THE  
13580 Groupe Drive  
Suite 301  
Woodbridge, VA 22192  
Ph: 703-670-0985 Fax: 703-670-7769

Number: 12Rev.  
Date: 11/2/16  
Job: 15-006 River Mill Park Phase I  
Phone: 703-491-1918

Please indicate your approval and acceptance of this proposal by issuing a formal change order and signing below. If you have any questions, please contact us at .

Submitted by:

Approved by: \_\_\_\_\_  
Date: \_\_\_\_\_

Cc: Tammy Heflin (Miller Brothers Inc)

The prices quoted in this proposal are good until 11/9/2016



**Miller Brothers, Inc.** (540) 364-6300 Phone  
**General Contractors** (540) 364-6307 Fax  
7587 Capitol Way  
Marshall, VA 20115  
[www.millerbrothersinc.com](http://www.millerbrothersinc.com)

10/26/2016

The Engineering Groupe  
Stan Orndorff  
13580 Groupe Drive  
Suite 301  
Woodbridge, VA 22192

#### River Mill Park Change Proposal #12 Delay's

Dear Mr. Omdorff,

In response to our meeting to discuss the costs for our change proposal #12 submitted on 5/17/16, Miller Brothers has completed a review of the delays on the project and analyzed the actual impact to the duration and costs of the project. In our analysis we went back and reviewed the original as planned construction schedule with the schedule updates and actual completion dates.

#### **Building Foundation**

The original construction schedule showed a 10/6/15 start date and duration of two days for the excavation of the foundation. The original logic of the schedule was to complete the installation of the conduit for Verizon and Cox so that the lines could be moved. This was delayed by the rock encountered in the excavation for the conduit. There was an existing pole that would not allow for the excavation of the building foundation, a decision was made to install a temporary pole outside of the excavation area for the new building and then shift the lines to this temporary pole.

The temporary pole was set and the existing lines were shifted on 10/12/15 and the existing pole was removed on 10/13/15 allowing for the excavation of the basement to be completed on 10/16/15. This resulted in a delay of 9 days in the completion of the foundation excavation task that Miller Brothers is entitled to extended general conditions for. Miller Brothers has a daily general condition cost of \$445/day based on calendar days. Since it is not possible to quantify the actual costs associated with this delay we feel that we should be compensated at the \$445/day rate. The cost for this would then be \$4,005.00 excluding OH & P.

#### **Bridge Railing & Building Power**

The bridge railing revisions and extensive review time required by VDOT were the longest item on the critical path to completion of the project. There were also delays to the final completion of the building that were a result of the change from three phase to single phase power and Dominion Powers ability to provide power to the building, but these were not the longest path of the delay and project completion only for the completion of the building.

The building was substantially complete on 2/22/16 when the roof was finished. Permanent power was provided by Dominion on 4/11/16. After permanent power was provided there was work required by the MEP trades to complete the tie in and start up of their systems.

Below is a brief timeline for the bridge railing submission and review.

1. Initial Submission of bridge railing shop drawings 9/24/15
2. Response from VDOT 10/7/15. The response indicated a change in railing type. TEG and MBI discussed the changes and it is MBI's understanding that TEG was discussing the proposed changes with VDOT since they were going to add costs to the project. MBI was authorized to revise shop drawings on 11/17/15.

3. Revised railing shop drawings submitted 12/11/15.
4. TEG comments addressed and shop drawings updated, submitted to TEG and VDOT 12/24/15.
5. VDOT comments received 1/29/16
6. Revised shop drawings sent to VDOT 2/9/16
7. VDOT approval 2/18/16

It is important to note that the "revisions" required by VDOT comments were for requirements not shown on the permitted set of drawings which had already been approved by VDOT.

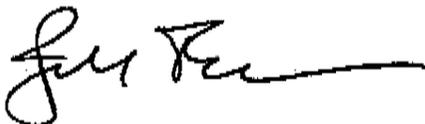
The bridge railing installation was completed on 5/23/16. There were several inspection walks with VDOT and several punch list items that were generated during these walks, VDOT's final acceptance of the bridge was on 5/31/16.

Miller Brothers is able to quantify the actual general conditions costs for the time from 2/22/16 to the end of the project through our accounting software. The actual extended general condition costs incurred by Miller Brothers for this time period are Labor (Supervision/PM/PC/General Labor), Temporary Utilities, Temporary Toilets, Fuel, and Courier Services. The direct cost for these extended general conditions is \$13,307.66 excluding OH & P. We have included a cost report detailing these costs with this letter.

Below you will find a summary of the costs associated with these delays. If after your review you agree with these costs we can prepare a REVISED change proposal 10 for your approval. If during your review you have any questions or need any additional information, please do not hesitate to contact me.

Building Foundation	\$4,005.00
Bridge Railing	\$13,307.66
Subtotal	\$17,312.66
OH & P 10%	\$1,731.26
<b>Total</b>	<b>\$19,043.92</b>

Sincerely,



Miller Brothers, Inc.  
John Bedenbaugh

Encl: As indicated

Cc: Mr. Billy Flynn  
Ms. Kirstyn Jovanovich

# Cost Code Summary as of Specific Date

ir Brothers Inc.

10-05-2016

Page 1

10-05-2016

15-006 River Mill Park Phase I

Project Manager: JOHN BEDENBAUGH

	<u>Original Estimate</u>	<u>Approved Changes</u>	<u>Total Estimate</u>	<u>Total Committed</u>	<u>JTD Costs</u>	<u>Remaining Estimate</u>
<b>GENERAL CONDITIONS</b>						
1-090 PROJECT MANAGER					3,538	3,538-
1-092 PROJECT COORDINATORS					504	504-
1-100 SUPERVISION					7,583	7,583-
1-101 GENERAL LABOR					904	904-
1-105 TEMP WATER					115	115-
1-106 TEMP TOILET					314	314-
1-132 DUMPSTER					647	647-
1-133 GENERAL CLEAN UP					264	264-
1-138 FUEL					29	29-
1-145 PUNCH LIST					874	871-
1-160 FINAL CLEAN					497	197-
1-301 COURIER SERVICES					57	57-
<b>Primary Totals</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>45,022-</b>	<b>15,022-</b>
<b>River Mill Park Phase I Totals</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>45,022-</b>	<b>15,022-</b>
					13,307	

**John Bedenbaugh**

---

**From:** John Bedenbaugh  
**Sent:** Wednesday, February 03, 2016 3:12 PM  
**To:** 'sOrndorff@enggroupe.com'  
**Cc:** RiverMillPark@enggroupe.com  
**Subject:** River Mill Park January Schedule Update  
**Attachments:** RMP January Schedule Update.pdf; RMP Dominion Estimated Completion.pdf; SKMBT\_C552D16020311230.pdf

Stan,

Please see the attached January schedule update as well as a copy of the delay notification that we discussed during last week's meeting. I have also attached the current electrical status from the Dominion Power website.

Best Regards,

John Bedenbaugh



7587 Capitol Way, Marshall, VA 20115

Tel 540-364-6300

Cell 540-878-8943

Fax 540-364-6307

Email: [jbedenbaugh@millerbrothersinc.com](mailto:jbedenbaugh@millerbrothersinc.com)

[www.millerbrothersinc.com](http://www.millerbrothersinc.com)



**Miller Brothers, Inc.** (540) 364-6300 Phone  
**General Contractors** (540) 364-6307 Fax  
7587 Capitol Way  
Marshall, VA 20115  
www.millerbrothersinc.com

February 3, 2016

Mr. Stan Orndorff  
The Engineering Groupe  
13580 Groupe Drive, Suite 301  
Woodbridge, VA 22192

**Delay Notice River Mill Park – Occoquan, VA**

Dear Mr. Orndorff;

The completion of this project is being delayed by issues outside of our control; approval of the bridge railing by VDOT and the connection of permanent power by Dominion Power. Miller Brothers anticipates completion of contract work not affected by these items by the end of next week.

The bridge railing has been tracked as a fragnet in the project schedule beginning with the November schedule update and notification of the potential delay was sent via e-mail with the November schedule update.

The issue with Dominion Power is being tracked as a fragnet in the project schedule beginning with the December schedule update and notification of the potential delay was sent via e-mail with the December schedule update.

Fabrication of the bridge railing cannot begin until VDOT approval is received, once fabrication and powder coating is complete the railing can be installed. The installation of the railing must occur concurrently with the installation of the bridge conduit to allow for the safe installation of both. Upon completion of the railing and conduit installation the Cox and Verizon lines can be relocated and temporary pole removed. Upon removal of the temporary pole the sidewalk can be completed.

We received Revised electrical plans on 1/19/16 that indicate the change from 3 phase power to single phase power. Currently we are evaluating these changes and will be submitting a change proposal for the additional costs shortly. Upon approval of the change proposal we will complete the required work for the change from 3 phase to single phase. At this point we will be ready for Dominion to provide permanent power and at that time we will be able to complete the electrical and mechanical start ups. Dominion Power is currently showing that the service has not been designed yet and is at the stage where they are still waiting for customer input to begin the design process. They are showing an anticipated completion date for their work of 2/19/16, which is the same date they showed on 12/15/15, it is unclear if this date is accurate since it appears that Dominion has not completed any additional work on the design since 12/15/15.

Miller Brothers will be exposed to extended general conditions in order to complete this project and is entitled to compensation for these costs. We will be submitting a change proposal for extended general conditions for February for approval and incorporation into a change order so that these additional costs can be included in our February requisition for payment.

Should you have any questions or wish to discuss this, please do not hesitate to contact me.

Respectfully,

John Bedenbaugh



Search

Work Request

Work Request Basic Information

To track a **Work Request**, enter the Work Request Number and click the Go button.

Work Request Number: \*

10017573

Clear Go

\* Required

Work Request Information

Work Request No: 10017573

Dominion Contact Information

Name: David L. Henderson  
 Email: David.L.Henderson@dom.com  
 Phone: (703) 490 - 2835  
 Dominion Office: Woodbridge Construction

Work Request Location Address

Work Location: OCCOQUAN VA 22125

Work Request General Information

Work Request Type: Municipal New Underground  
 Work Request Status: SETUP

Work Request Tasks Status

Description	Date Completed
WORK REQUEST INITIATED	<input checked="" type="checkbox"/> 12/10/2015
INFORMATION REQUIRED FOR DESIGN RECEIVED	<input type="checkbox"/>
DESIGN/PROJECT APPROVED	<input type="checkbox"/>
Receive UG agreement	<input type="checkbox"/>
Receive cost to customer (ccp)	<input type="checkbox"/>
Receive letter of authorization (loa)	<input type="checkbox"/>
Customer Confirmed Site Ready	<input type="checkbox"/>
Work Schedule Established	<input type="checkbox"/>
CONSTRUCTION COMPLETE	<input type="checkbox"/>

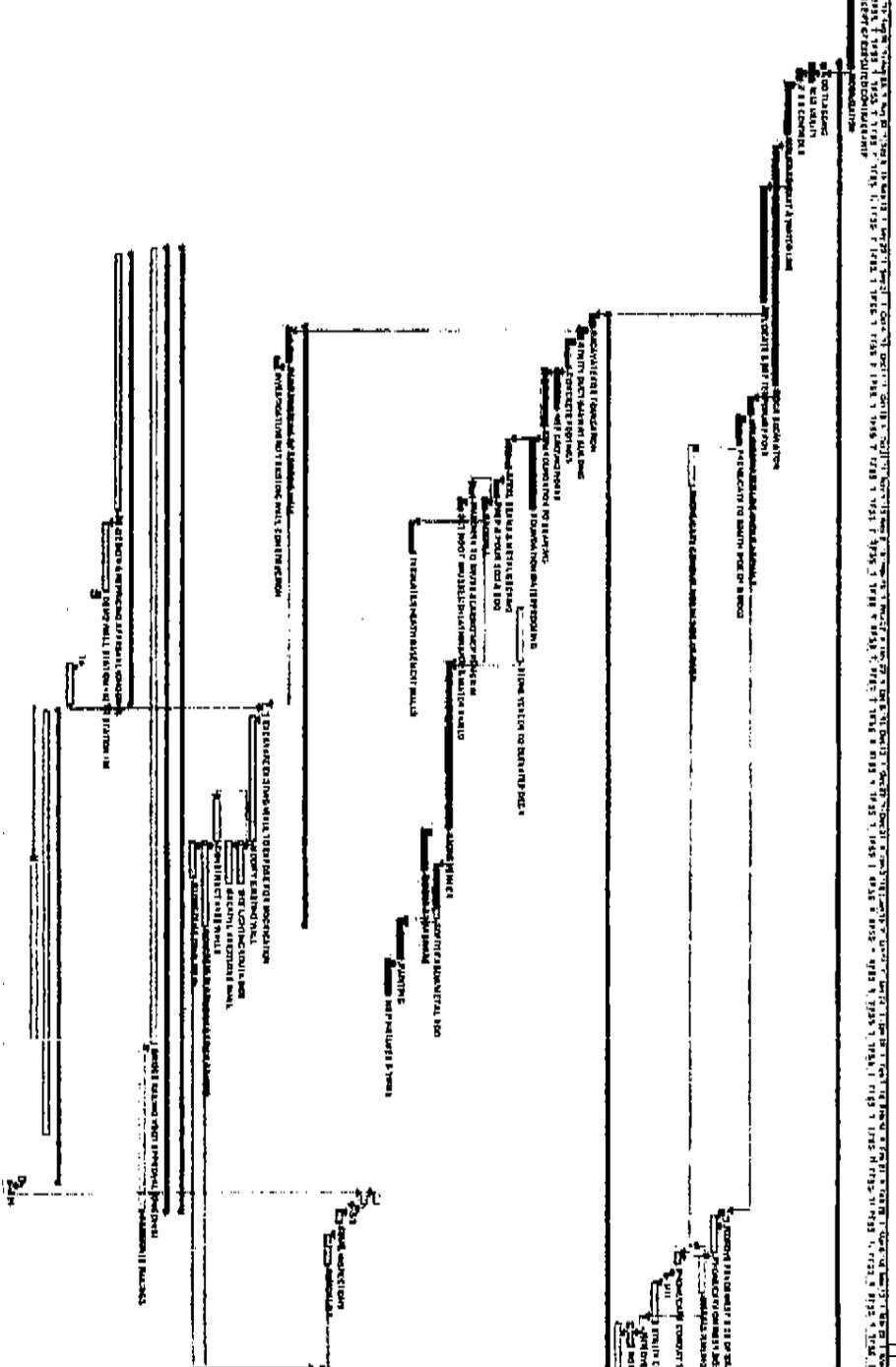
Work Request Dates

\*\* Dominion's Scheduled Start: Dominion's Scheduled Completion:  
 Construction Complete Date: Dominion's Projected Completion Date: 02/26/2016  
 Work Request Cancel Date: N/A Work Request Cancel Reason: N/A

**GENERAL NOTES:**

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL CODES AND STANDARDS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ENGINEER.
4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL SERVICES AND UTILITIES AT ALL TIMES.
5. ALL EXCAVATIONS SHALL BE PROTECTED AND SHORED UP TO PREVENT COLLAPSE.
6. ALL FOUNDATIONS SHALL BE CONSTRUCTED ON UNDISTURBED SOIL.
7. ALL CONCRETE SHALL BE CAST AND CURED IN ACCORDANCE WITH THE SPECIFICATIONS.
8. ALL STEELWORK SHALL BE WELDED TO THE REQUIREMENTS OF THE WELDERING CODE.
9. ALL ELECTRICAL AND MECHANICAL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE RELEVANT STANDARDS.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SERVICES AND UTILITIES.
11. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
12. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.
13. ALL MATERIALS SHALL BE STORED PROPERLY TO PREVENT DAMAGE.
14. ALL WORK SHALL BE COMPLETED TO THE SATISFACTION OF THE ENGINEER.
15. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SERVICES AND UTILITIES.
16. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
17. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.
18. ALL MATERIALS SHALL BE STORED PROPERLY TO PREVENT DAMAGE.
19. ALL WORK SHALL BE COMPLETED TO THE SATISFACTION OF THE ENGINEER.
20. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SERVICES AND UTILITIES.

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	Excavation 1m x 1m x 1m	10	m <sup>3</sup>	100	1000
2	Concrete 1m x 1m x 1m	10	m <sup>3</sup>	150	1500
3	Steel reinforcement	10	kg	20	200
4	Formwork 1m x 1m x 1m	10	m <sup>2</sup>	50	500
5	Labour	10	man-days	100	1000
6	Transportation	10	m <sup>3</sup>	10	100
7	Site preparation	10	m <sup>2</sup>	10	100
8	Foundation	10	m <sup>3</sup>	100	1000
9	Walling	10	m <sup>2</sup>	100	1000
10	Roofing	10	m <sup>2</sup>	100	1000
11	Electrical	10	m <sup>2</sup>	100	1000
12	Mechanical	10	m <sup>2</sup>	100	1000
13	Painting	10	m <sup>2</sup>	100	1000
14	Finishing	10	m <sup>2</sup>	100	1000
15	Other	10	m <sup>2</sup>	100	1000



Project Name: [ ]

Client: [ ]

Address: [ ]

Scale: [ ]

Date: [ ]

Drawn by: [ ]

Checked by: [ ]

Project No: [ ]

Sheet No: [ ]

Revision: [ ]

**John Bedenbaugh**

---

**From:** TMurray@enggroupe.com  
**Sent:** Monday, November 23, 2015 10:57 AM  
**To:** John Bedenbaugh  
**Cc:** MWilliams@enggroupe.com; RiverMillPark@enggroupe.com  
**Subject:** RE: River Mill Park Change Proposal #03

Good morning John.

Thank you for your email on Friday. For clarity the response will be on specific contract items.

**Schedule**

We agree that the effective start date is August 10, 2015. Any proposed changes in the contract period will need to be approved by the Town. We have reviewed the schedule submitted on November 19th and will forward this schedule to the Town with our recommendation for acceptance as part of a change order. The change order must stipulate that the schedule is all inclusive and must include all other items related to changes in scope and costs.

**Retaining Wall**

Our understanding is that Miller Brothers has all information needed to start demolishing the existing retaining wall. The re-design of the new retaining wall is approved and was submitted for permit on Friday November 20th. The turnaround time for permits is 3 working days. We discussed the retaining wall pricing in your proposal dated November 10th with the Town shortly after we received it; at that time the Town was willing to accept it. We also acknowledged during our Friday phone conversation that there will be some extended general conditions due to the re-design of the retaining wall and the pedestrian bridge railing. Therefore, given the Town's willingness to accept the previous pricing and Miller Brothers' willingness to proceed with the retaining wall work while the extended general conditions are being negotiated there should be nothing preventing Miller Brothers from completing the retaining wall work. We appreciate Miller Brothers' interest in keeping the project moving forward, this is in our best interest and the Town's best interest also.

**Pedestrian Bridge**

Miller Brothers submitted the pricing proposal for the Pedestrian bridge railing to The Engineering Groupe on Friday 11/20/15. The Engineering Groupe then submitted the pricing proposal, with the recommendation for approval, to the Town on the same day. We are confident that the Town will approve the pricing proposal. Given the above, please prepare and forward to us all required cut-sheets/submittals for the railing so that the pedestrian bridge railing can be approved as soon as possible.

**Rock**

As stated on several occasions, please forward your pricing proposal for the excavation of rock.

Matt and I will give you a call shortly to discuss any other outstanding items.

Tom.

---

**From:** John Bedenbaugh [mailto:JBedenbaugh@millerbrothersinc.com]  
**Sent:** Friday, November 20, 2015 6:44 PM  
**To:** Thomas Murray <TMurray@enggroupe.com>; Matthew Williams <MWilliams@enggroupe.com>  
**Subject:** River Mill Park Change Proposal #03

Tom/Matt,

Pursuant to our phone conversation earlier today, I have reviewed CP #03 as well as the associated extended general condition days.

The contract has a start date of 7/27/15 and a completion date of 12/14/15, 140 calendar days. Section II paragraph E of the contract establishes the "Effective Date" of the contract, which in this case is the execution by the Town which occurred on 8/3/15, Miller Brothers received the executed contract on 8/10/15. We used the 8/10/15 date as the contract start date as shown in our draft construction schedule that was submitted for review. Based on the effective date of 8/10/15 the completion date on that schedule was 12/28/15, 140 calendar days. The extended general condition days should have been calculated from a 12/28/15 finish date rather than the 12/14/15 date that was used in change proposal #03.

The most recent schedule update dated 11/19/15 and included with change proposal #03 shows the building completing on 1/4/16 with the completion of the punch list. This is 7 calendar days past the original completion date as outlined above. These 7 days are concurrent delay with the retaining wall and bridge railing, MBI does not waive their rights to compensation for extended general conditions relating to concurrent delays.

Given these facts and to keep the project moving forward we will Revise the number of days that we are seeking extended general conditions to 26 days, the time from 1/4/16 to 1/29. At the calendar day general condition rate of \$445/day that would reduce the cost of extended general conditions to \$12,727.00 including OHP.

As stated on the phone today each day that a decision not made and MBI is not authorized to proceed another day is added to the project duration and another day is added to extended general conditions. Miller Brothers is willing to proceed with the retaining wall work upon your approval even while the extended general condition costs are being negotiated, as long as we can come to an agreement that there are extended general conditions, our interest is in moving forward.

After you have had a chance to review this e-mail please give us a call on Monday morning to discuss this further.

Best Regards,

John Bedenbaugh



7587 Capitol Way, Marshall, VA 20115

Tel 540-364-6300

Cell 540-878-8943

Fax 540-364-6307

Email: [jbedenbaugh@millerbrothersinc.com](mailto:jbedenbaugh@millerbrothersinc.com)

[www.millerbrothersinc.com](http://www.millerbrothersinc.com)



# TOWN OF OCCOQUAN

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J. Matthew Dawson  
Jim Drakes  
Cindy Fithian  
Joe McGuire

**TOWN MANAGER**  
Kirstyn Barr Jovanovich

## **Town Engineer's Report Town Council Meeting -February 7, 2017**

### **Land Development Activity** Vistas at Occoquan

#### **Kayak/Canoe Launch - update from last report**

Goal is to have Request for Proposal (RFP) advertised by 2/27/17, interviews for short-listed firms in March, with Town Council approval in April or May. Construction would start after June 30, 2017, due to "time of year" restriction for anadromous fish in Occoquan River. Town Attorney has reviewed and commented on IFB documents, with same forwarded to DCR for comment.

#### **River Mill Park - no change from last report**

Presentation by The Engineering Groupe.

#### **Tanyard Hill property - update from last report**

Proffer Condition Amendment (PCA) required for any work on site or to add signage. Working with Prince William County Planning staff to establish process and time frames. On schedule to have updated rezoning package, including new proffers, GDP, application, Comprehensive Plan Amendment, narrative, etc. in February 2017. Fee for submission being reviewed with PWC Board member.

#### **Vistas at Occoquan - no change from last report**

Bond release process started by D. R. Horton. As-builts submitted 9/9/16 - comments from TEG and returned to submitting engineer. No progress since last meeting.

#### **Occoquan Heights Landscape Maintenance Bond Release - no change from last report**

Request for landscape bond release submitted by HOA. Inspection conducted with minor replantings required. On-going process.

#### **Rivertown Overlook Property - update from last report**

Owner has submitted revised development documents; under review by Town Attorney. Revised Plat submitted and reviewed. On-going process.

#### **VDOT Revenue Sharing - update from last report**

Met with VDOT representatives to discuss options for various funding programs through VDOT (Smart Scale, Revenue Sharing, Highway Safety Improvement Program, Bike-Ped Safety, Transportation Alternatives Set-Aside, Federal Lands Access Programs). Options for improving cross walks proposed. Trail options can be considered.

**Fairfax County Comprehensive Plan Amendment**

Plan Amendment 2016-CW-3CP (Editorial Text and Map Revisions for Transit Stations and Other Mixed-Use Areas). Planning Commission tentatively scheduled for 2/15/17, BOS scheduled for 3/14/17 - will not directly impact Occoquan. Pertains to SB 549 and proffers associated with Mixed-use and transit areas in Fairfax.

-END-



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**BUILDING OFFICIAL**  
Joseph E. Barbeau, Jr.

## JANUARY 2017 REPORT TO THE TOWN COUNCIL BUILDING OFFICIAL REPORT

### PERMITS ISSUED

1/12/2017, Permit issued to replace all metering and distribution equipment at 311 Mill Street.

1/27/2017, Permit issued to perform demolition at 301 Commerce Street.

2/2/2017, Permit issued to reinforce a caring beam and remodel a kitchen at 204 Brawner's Farm Place.

### CERTIFICATES OF OCCUPANCY ISSUED

1/9/2017, CO issued to Red Art and Designs, 125 Mill St, Unit 9. Tenant change, no change of use or construction involved.

### INSPECTIONS

Date	Activity
1/16/2017	Final Inspection of the installation of new roofing at 184 Washington Street; Approved.
1/16/2017	Final Inspection of the installation of new roofing at 158 Washington Street; Approved.
1/24/2017	Pre-construction walk thru with owner and business owner.
1/31/2017	On-site for Installation of new metering and distribution equipment; and all inspections pertaining to this installation, at 301 Mill Street, Approved.

### DOCUMENT REVIEW

River Town Overlook Project, Lots 1, 2, and 3; this review should be completed NLT 2/8/2017.

### ACTIONS

No actions are underway at this time.

### RECOMMENDATIONS

There are no recommendations for the Council at this time.

### OTHER

There is no other business to report at this time.

**End of Report, submitted on 2/2/2017.**



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Kirstyn Barr Jovanovich

## **Town Manager's Report Town Council Meeting - February 7, 2017**

### **Mamie Davis Damage and Repairs**

On January 13, 2017, a dump truck drove into Mamie Davis Park and damaged masonry, ironwork, trash cans, and landscaping. In addition, the truck's damaged fuel tank leaked diesel onto the grounds, which must be remediated. Remediation of the fuel is scheduled for Monday, February 6, and Town staff has been working with the trucking company's insurance company to complete the necessary repairs. Until repairs can be completed, the park will remain closed to the public.

After reviewing the damage and impact to the park, we will not be rebuilding the two pillars damaged by the truck. Instead, we will be removing the damaged pillars and widening the entrance to the park. Staff is working with the landscaper to replace and repair the damage landscaping to beautify and repair the entrance to the park.

### **Community Development and Events Director Position Update**

Interviews were completed on Friday, February 3, 2017, and the panel is currently reviewing the candidates.

### **Police Department Assessment**

No update has been provided by VACP on the status of the police department assessment.

### **Police Auxiliary Position Posted**

A position announcement for police auxiliary officers has been posted on the town's website and sent to VACP. The announcement will be posted until filled.

-END-



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**TOWN MANAGER**  
 Kirstyn Barr Jovanovich

**TOWN TREASURER**  
 Abigail Breeding, CPA

## Town Treasurer's Report Town Council Meeting - Feb 7, 2017

### Audits

Provide update/status on audits:

Audit Type	Current Status	Last FY Audit Completed	Next Steps/Action
Financial Audit	In Process	FYE 2015	No action
Meals Tax Audit		None	
BPOL Audit		2012 License Year	

### Delinquencies

Provide update/status on delinquencies:

Meals Tax Delinquencies				
Business Name	Length of Delinquency (months)	Amount of Delinquency (total, est.)	Date of Last Notice	Status of Compliance
Pink Bicycle Tea Room	2	\$160	1/24/17	

Business License Delinquencies				
Business Name	Length of Delinquency (Years)	Date of Last Notice	Status of Compliance	
13 Magickal Moons	1	12/28/16		
Aer Potentia	1	12/28/16		
Excellence Home Health Services	1	12/28/16		
Fathom Realty	1	12/28/16		
Make Wake, LLC	1	12/28/16		
Mike Garcia Construction	1	12/28/16		
Proactive Wellness Concepts	1	12/28/16		
Red Art and Design	1	12/28/16	No license, shouldn't have CS booth	
Tai Chi Jab	1	12/28/16		
The RJ Group	1	12/28/16	Paid for 2017 BPOL	
Daken Operations Analysis and Strategies	1	12/28/16		
Ervin Engineering	1	12/28/16		

<b>Real Estate Delinquencies</b>				
<b>Property Address OR Property Owner (whichever is appropriate to publish)</b>	<b>Length of Delinquency (Years)</b>	<b>Amount of Delinquency (Tax Only)</b>	<b>Date of Last Notice</b>	<b>Status of Compliance</b>
Fore, Ernest J	2	\$695	12/28/16	
Houghton, Joy, Ronald W. & Lance R.	1	\$1	12/28/16	
Houghton, Lance	1	\$128	12/28/16	
Selecman, James	3	\$813	10/4/16	Requires PS posting on door.

**Other Items of Note**

None.



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**TOWN MANAGER**  
 Kirstyn Barr Jovanovich

**INTERIM CHIEF OF POLICE/  
 TOWN SERGEANT**  
 Adam C. Linn

## Occoquan Police Department

### Monthly Town Council Report February 7, 2017

#### Departmental Goals

*(Set by Town Council in February 2016)*

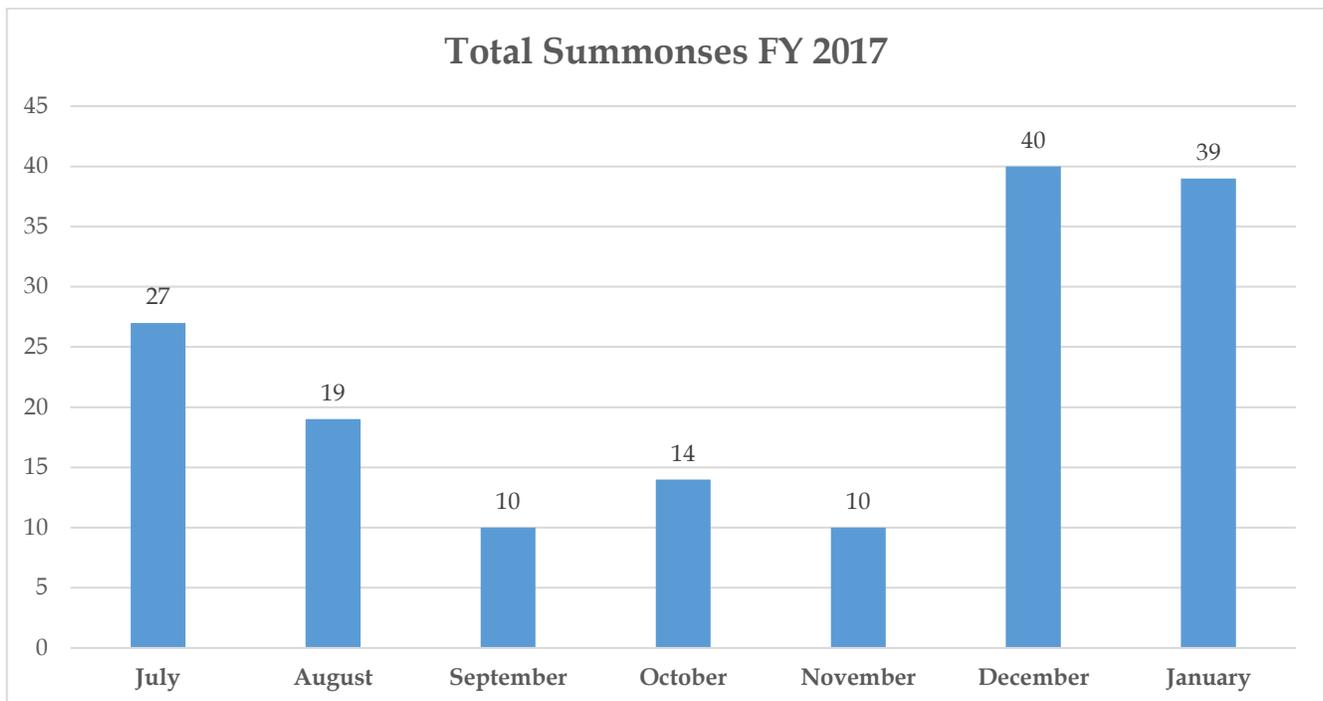
- Goal 1: Protection of private property
- Goal 2: Improvement of pedestrian safety
- Goal 3: Increased patrol hours including nights and weekends
- Goal 4: Prioritizing community meetings outside of town
- Goal 5: Updating department policies

#### Significant Incidents

Nature	Date	Location	Details
Hit and Run	12/28/2016	Town	Responded to a call that a dark colored vehicle hit a gas light and knocked a glass pane to the ground across from 202 Washington St.
Suspicious Person	12/28/16	Town	Received complaint that an unknown person was attempting to gain entry into homes on Fortress Way by soliciting doors and windows. Investigated and unable to identify the person.
Command Meeting	12/28/2016	Garfield Police Station	Met with Station Commander regarding PWC Police patrols and assistance in Town.
Destruction of Property	1/1/2017	Town	"Welcome to Historic Occoquan" sign located near Commerce St. and Washington St. was struck by an unknown vehicle and damaged.
Graffiti & Vandalism	1/4/2017	Town	Investigated complaints of vandalism and graffiti at Riverwalk Shops.
Auto Accident	1/7/2017	Town/County Line	Dispatched to 2 car auto accident at Gordon Blvd & Woodlee Terrace

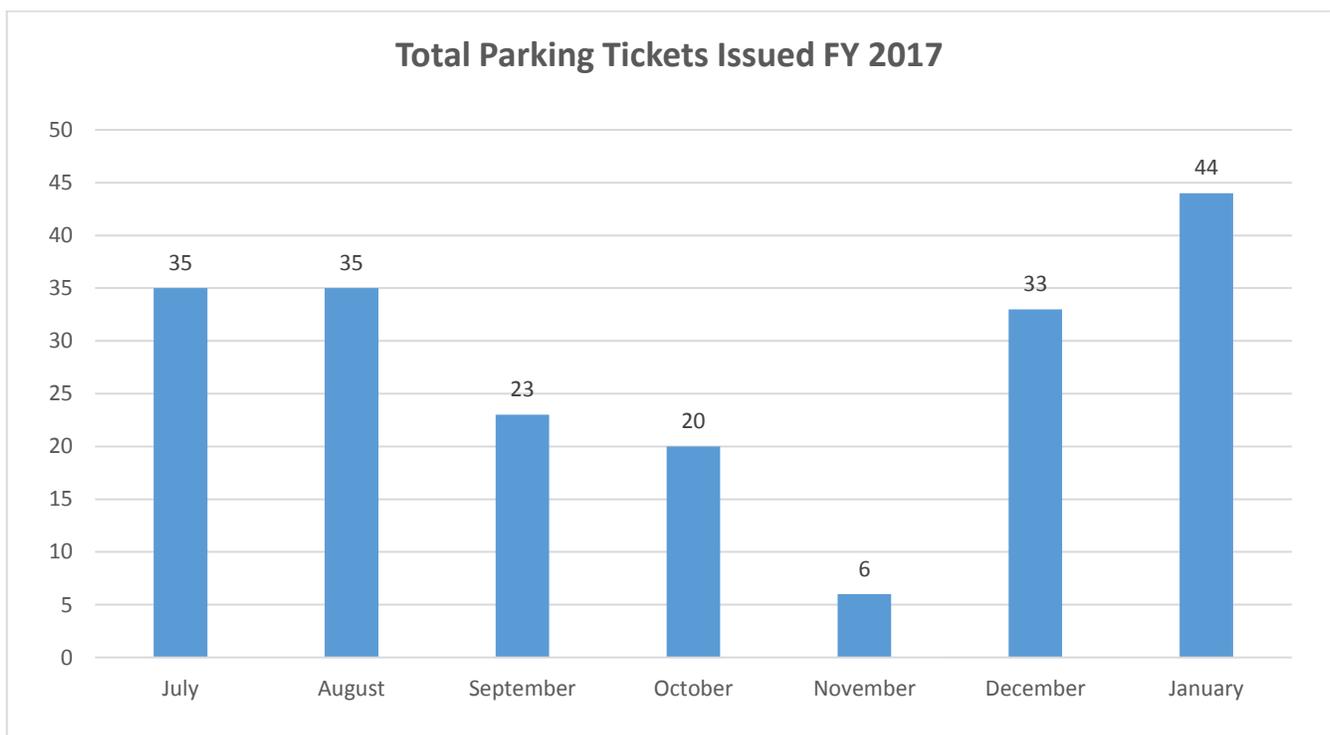
Directed Traffic Enforcement	1/9-12/2017	Town	Directed speed enforcement during afternoon rush on Washington St & Occoquan Heights Ct.
Park Accident	1/13/2017	Town	Dump truck crashed through pillars and into Mamie Davis Park causing significant property damage and a Hazmat spill of approximately 60 gallons of diesel fuel.
Residential Alarm	1/17/2017	Town	Responded to Residential Alarm call in Occoquan Heights. Determined accidental.
Wires Down	1/18/2017	Town	Responded to complaint of lines down in front of 201 Mill St. Phone company contacted and downed wires were removed.
Commercial Alarm	1/18/2017	Town	Responded to Commercial Alarm call on 313 Mill St. Determined accidental.
Welfare Check	1/20/2017	Town	Responded to a children welfare status check on Heron Ln.
Parking Complaints	1/23-26/2017	Town	Received several parking complaints from business owners regarding extended vehicles parking in front of their businesses.
Stalking Complaint	1/30/2017	Town	Responded with PWC Police to a complaint of domestic harassment/stalking.
First Aid	1/30/2017	Town	Provided first aid to injured tree contractor.
Service Request	1/31/2017	Town	Mamie Davis Park- met with the Hazmat removal contractor and reviewed proposed work.
Service Request	1/31/2017	Town	River Mill Park- found a security fence pole knocked out of the concrete and leaning.
Service Request	1/31/2017	Town	Ellicott Street. Contractors were attempting to remove trees from the property without a proper permit. Work was stopped until permit was obtained.

**Traffic Summonses FYTD (GRAPH) <sup>1</sup>**



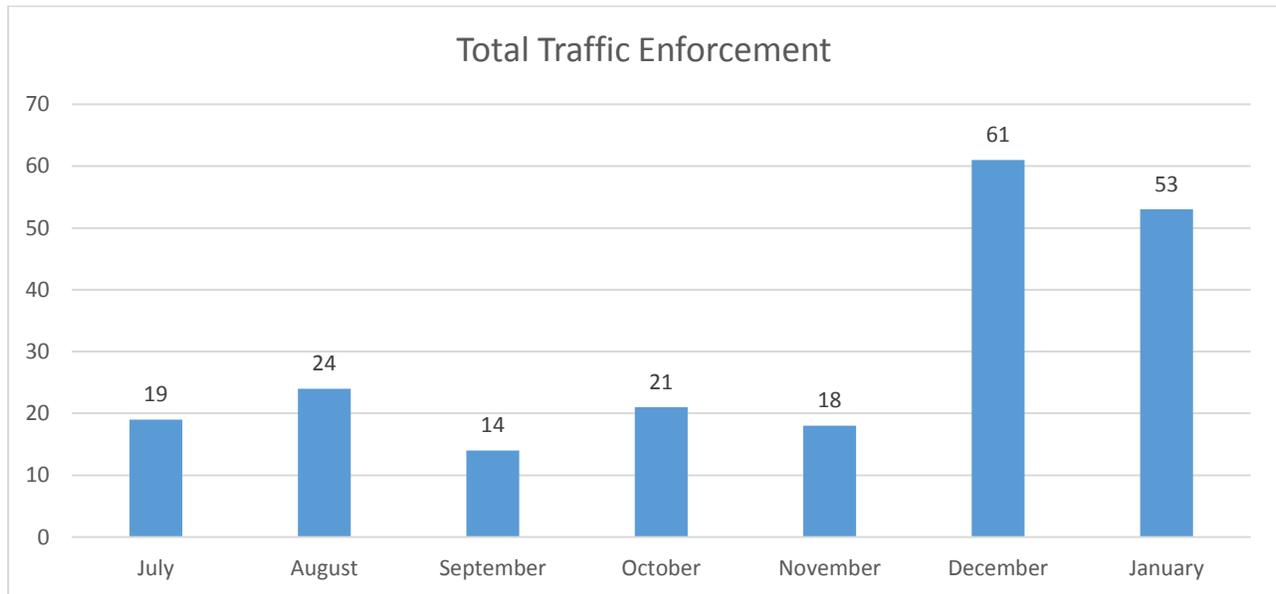
<sup>1</sup>Goals 1, 2

**Parking Tickets Issued FYTD (GRAPH) <sup>2</sup>**



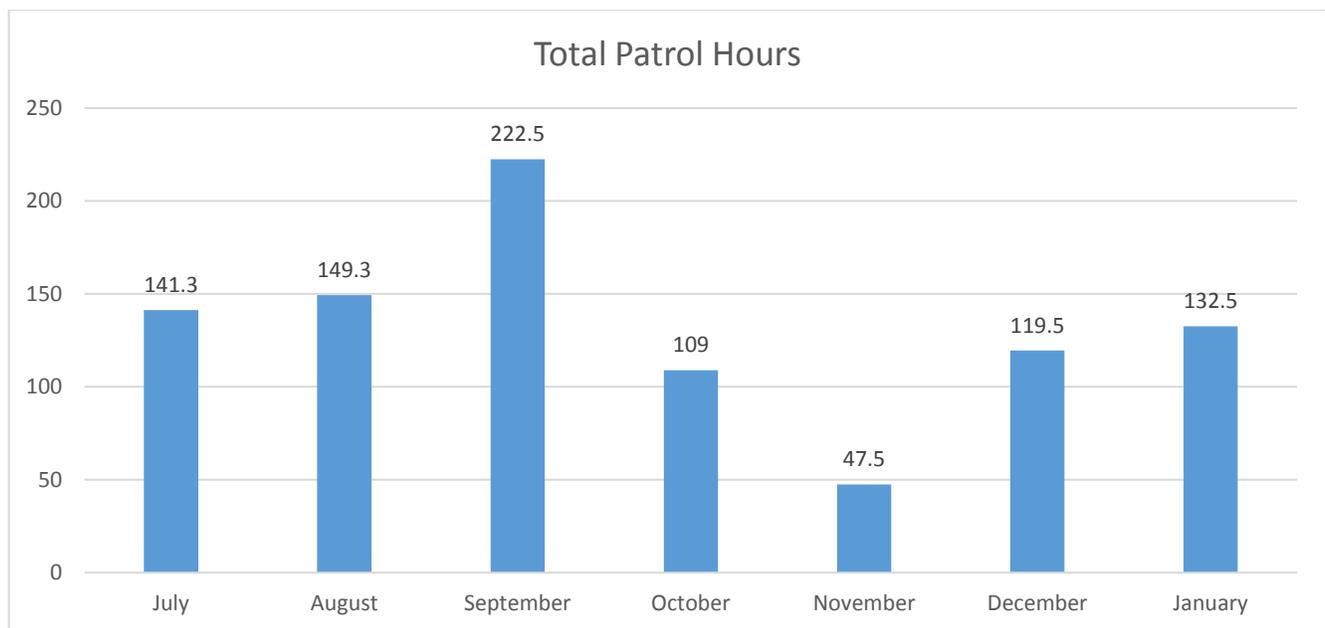
<sup>2</sup>Goal 2

**Traffic Enforcement FYTD (GRAPH)**<sup>3</sup>

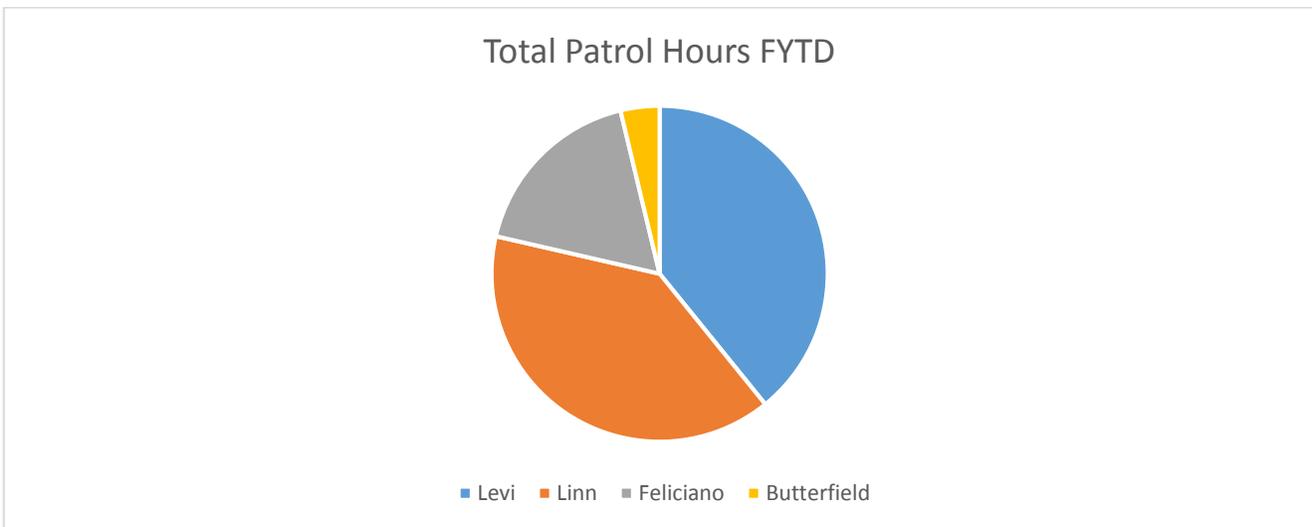
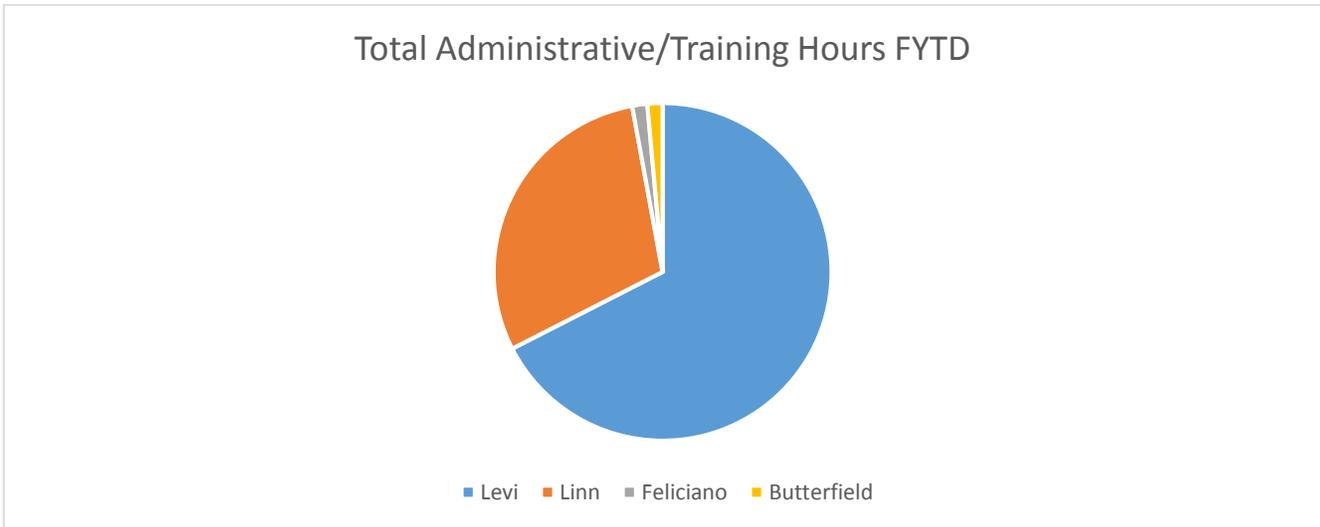


<sup>3</sup>Goal 2

**Patrol Hours FYTD (GRAPH)**<sup>4</sup>



<sup>4</sup>Goals 1, 2, 3



**Community Relations**

Spoke with business/property owners regarding perceived law enforcement issues in Town (parking and vehicle complaints, skate boarding, vandalism, new management company). Spoke with residents about animals roaming off leashes near Occoquan Heights Court. Spoke with residents regarding Town Vehicle Decals. Spoke with a resident of W. Locust St. regarding posting of “No Parking” on W. Locust Street.

**Current Initiatives**

Working with Town Staff and Vendor on procuring and installing “No Parking” signs on W. Locust St. Working with VDOT on installing “No blocking the intersection” sign on Gordon Blvd and Commerce Street.<sup>1</sup>

Updating General Orders; currently reviewing General Orders of similar small police departments as well as working with VML to finalize Department’s General Orders.<sup>2</sup>

<sup>1</sup>Goal 2

<sup>2</sup>Goal 5



**TOWN OF OCCOQUAN**  
**TOWN COUNCIL MEETING**  
Agenda Communication

<b>9. Regular Business</b>	<b>Meeting Date:</b> February 7, 2017
<b>9 A: Request to Approve Revised Rivertown Overlook Plat</b>	

**Explanation and Summary:**

This is a request to approve the revised Rivertown Overlook Subdivision and Easement Plat (revision date, November 3, 2014). The Town Council approved a revised plat for this project on May 7, 2014; however, additional revisions were made to the plat after approval. The revised plat has been reviewed by the Zoning Administrator and Town Engineer, and a staff report is attached.

**Town Engineer's Recommendation:** Recommend approval, contingent on submission and approval of appropriate documentation.

**Town Attorney's Recommendation:** Concur with Town Engineer's recommendation.

**Town Manager's Recommendation:** Concur with Town Engineer's recommendation.

**Cost and Financing:** N/A

**Account Number:** N/A

**Proposed/Suggested Motion:**

"I move to approve the Rivertown Overlook plat of subdivision and easement prepared by Holmes Smith, contingent on the submission and approval of appropriate documentation including deeds, Homeowners Association for maintenance of the appropriate improvements, tri-party agreement for maintenance of the public sidewalk, and an updated Performance Bond in the amount of \$48,420, along with a current surety agreement."

OR

Other action Council deems appropriate.

**Attachments: (2)** Staff Report  
Rivertown Overlook Plat of Subdivision and Easement, revised  
November 3, 2014

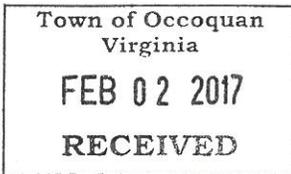


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## STAFF REPORT Rivertown Overlook

Applicant: Berrywood, Inc.

Date: February 1, 2017

### PART I

#### A. EXECUTIVE SUMMARY

The applicant proposes to have the previously approved plat re-approved. This staff report evaluates the proposed application as it pertains to town ordinances for conformity.

#### B. DESCRIPTION OF PETITION

The applicant requests approval of the Subdivision and Easement Plat, Rivertown Overlook for the above referenced property.

#### C. APPLICABLE REGULATIONS

1. Chapter 54 – Subdivisions
2. Chapter 66 – Zoning

### PART II

#### A. ANALYSIS OF EXISTING CONDITIONS

1. Site Area: +/-0.38acres
2. Use: Residential, (SFA)
3. Zone: R-3
4. Location: The referenced property is located east of the intersection of Ellicott Street and Center Lane in the Town's Old and Historic District.
5. Buildings/Structures: Six single family attached dwellings are proposed

6. Access: Access shall be from a private street, Rivertown Place that is partially built and accesses from Ellicott Street.

**B. ANALYSIS OF PROPOSED PLAT**

This plat is compliant with applicable regulations of the Town Code. This plat was previously approved by the Town Council.

**Any fees associated with the review and approval of the plat must be paid prior to release of the plat for recordation as well as bonds and sureties posted. A deed must be prepared and approved the town attorney to accompany the plat for recordation.**

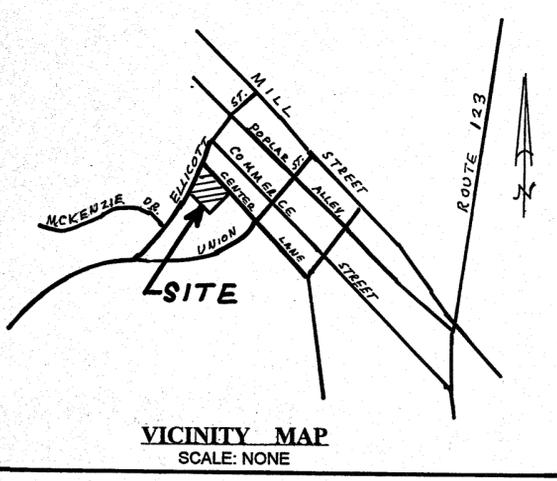
PART III

**STAFF CONCLUSIONS**

The proposed Subdivision and Easement Plat, Rivertown Overlook, having been duly reviewed and accepted by Town Staff, has been deemed consistent with the applicable provisions of the Town Code. It is therefore Staff's recommendation to grant **approval** to the above referenced Plat.

**PREPARED BY:** Ned A. Marshall, Zoning Administrator, February 1, 2017 *nm*

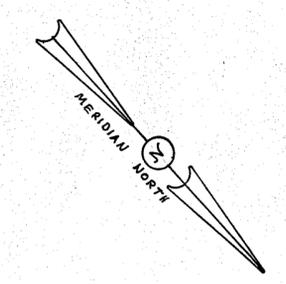
**APPROVED BY:** Bruce A. Reese, Town Engineer, February 1, 2017 *BR*



CURVE TABLE						
CURVE	RADIUS	DELTA	ARC	TANG.	CHORD	CHORD BEAR
①	10.00'	120°58' 03"	21.11'	17.66'	17.40'	N 72°30' 59" E

AREA TABULATION		
PARCEL, LOTS, ETC.	BEFORE DEDICATION	AFTER DEDICATION
GPIN 8393-64-3232	0.3773 ACRES (16,436 SQ.FT.)	0 ACRES
LOTS (6)	0 ACRES	0.2584 ACRES (11,255 SQ.FT.)
PARCEL A (COMMON AREA)	0 ACRES	0.0805 ACRES (3,508 SQ.FT.)
DEDICATED TO PUBLIC USE	0 ACRES	0.0384 ACRES (1,673 SQ. FT.)
TOTALS	0.3773 ACRES (16,436 SQ.FT.)	0.3773 ACRES (16,436 SQ.FT.)

- GENERAL NOTES:**
1. THE PURPOSE OF THIS SUBDIVISION IS TO CREATE SIX(6) TOWNHOUSE LOTS FROM ONE (1) EXISTING LOT OF RECORD (GPIN 8393-64-3232).
  2. PARCEL A IS TO BE CONVEYED TO AND IS TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
  3. THE PRIVATE STREET (INGRESS-EGRESS EASEMENT) SHOWN IS TO BE PRIVATELY OWNED AND PRIVATELY MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
  4. THE PRIVATE STREET SERVING THIS DEVELOPMENT IS NOT ELIGIBLE FOR ACCEPTANCE INTO THE TOWN OR STATE ROAD SYSTEM. THE MAINTENANCE OF THE STREET, INCLUDING SNOW REMOVAL, IS NOT A PUBLIC RESPONSIBILITY.
  5. THE PRINCE WILLIAM COUNTY SERVICE AUTHORITY WILL MAINTAIN THE WATER AND SANITARY SEWER SYSTEMS SHOWN TO BE LOCATED IN THE AREA SHOWN.
  6. THE HOMEOWNERS ASSOCIATION IS TO MAINTAIN THE STORM SEWER INSTALLATION IN THE STORM SEWER EASEMENT SHOWN, AND ALSO MAINTAIN THE SIDEWALK IN THE SIDEWALK EASEMENT SHOWN.
  7. THERE IS AN EXPRESS CONSENT TO ALLOW ACCESS TO THE GENERAL EASEMENTS SHOWN FOR INGRESS-EGRESS, WATER LINE AND SANITARY SEWER INSTALLATIONS, STORM SEWER AND ANY OTHER UTILITIES FOR THE TOWN OF OCCOQUAN, PRINCE WILLIAM COUNTY SERVICE AUTHORITY OR OTHERS FOR MAINTENANCE AND FOR EMERGENCY VEHICLES OVER THE PRIVATE STREET SHOWN.
  8. THIS PLAT WAS PREPARED WITH A VERY LIMITED RECORD/TITLE SEARCH BY THIS FIRM WITHOUT THE BENEFIT OF A FORMAL RENDERED TITLE REPORT BY OTHERS FOR THE PROPERTY SHOWN OR FOR ADJACENT PROPERTIES, AND THEREFORE THE INFORMATION SHOWN ON THIS PLAT MAY NOT NECESSARILY INDICATE ALL UNDERLYING UTILITIES, EASEMENTS AND/OR ENCUMBRANCES ON THE SUBJECT PROPERTY. ALL PREVIOUSLY RECORDED RIGHTS OF WAY, EASEMENTS OR OTHER INTERESTS OF THE STATE, COUNTY, OR OTHERS REMAIN IN FULL FORCE AND EFFECT.
  9. I.P.F. - IRON PIN OR PIPE FOUND, AND IRON PIPES ARE TO BE SET AT THE PROPOSED LOT CORNERS AT THE CONCLUSION OF THE CONSTRUCTION OR AT OTHER SUCH REASONABLE TIME AS REQUESTED WITH THE OWNERS RESOURCES AT THAT TIME.
  10. THERE IS NO RESOURCE PROTECTION AREA (RPA) OR 100 YEAR FLOOD PLAIN IDENTIFIED ON THE LAND SHOWN.
  11. THE LAND SHOWN IS ZONED R-3.

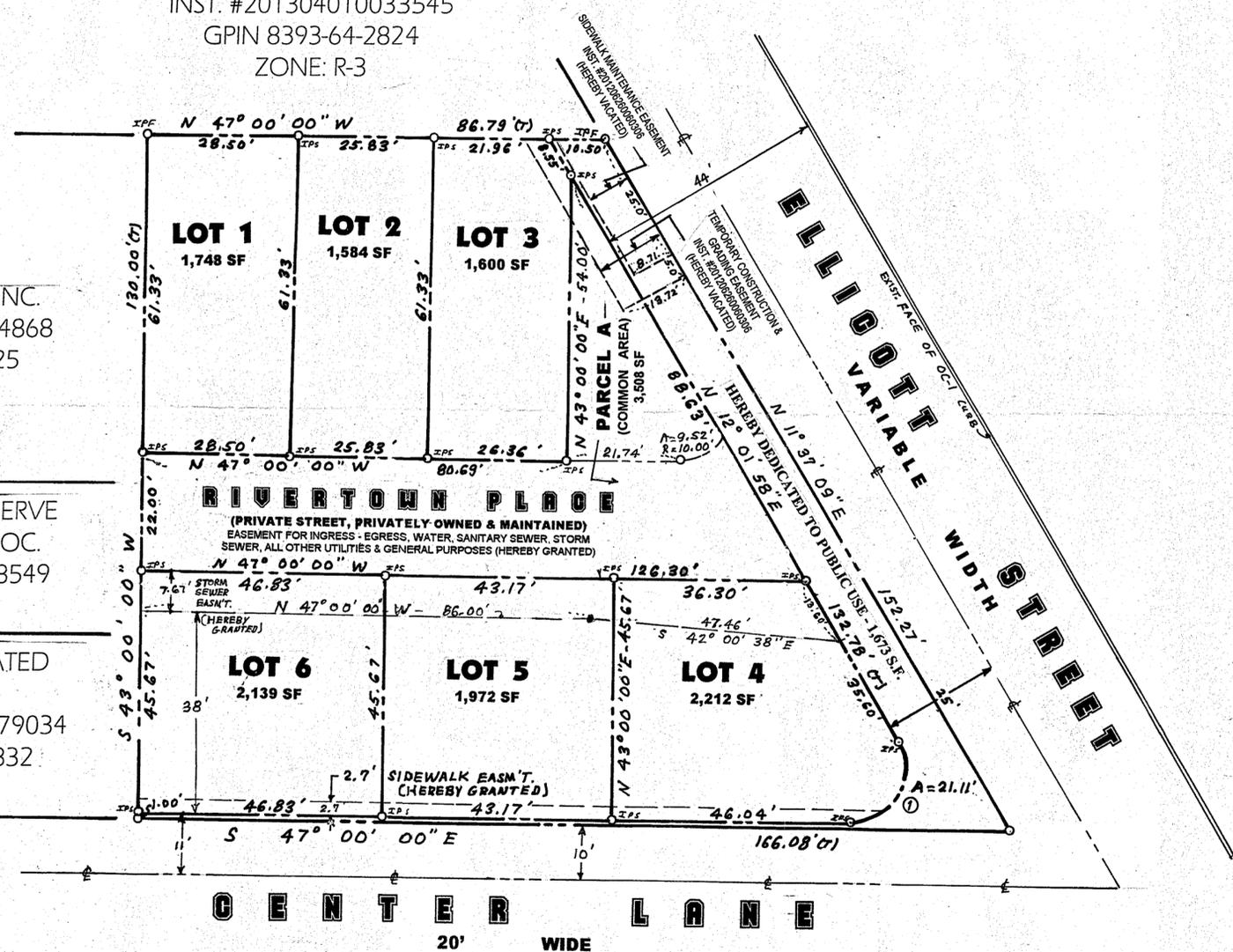


N/F BAERGA  
INST. #201304010033545  
GPIN 8393-64-2824  
ZONE: R-3

N/F BERRYWOOD, INC.  
INST. #200108160084868  
GPIN 8393-64-3425  
ZONE: R-3

N/F OCCOQUAN RESERVE  
HOMEOWNERS ASSOC.  
INST. #200606120088549  
ZONE: R-3

N/F PRM INTEGRATED  
SYSTEMS, LLC  
INST. #200108020079034  
GPIN 8393-64-3832  
ZONE: R-3



**OWNERS CONSENT & DEDICATION**

THE PLATTING AND DEDICATION OF THE LAND AS SHOWN HEREON, AND AS DESCRIBED IN THE SURVEYOR'S CERTIFICATE IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S). THE UNDERSIGNED HEREBY EXPRESSLY CONSENTS TO THE DEDICATION FOR THE AREA SHOWN FOR PUBLIC STREET PURPOSES TO THE TOWN OF OCCOQUAN, VIRGINIA OR THEIR ASSIGNS, AND THE DEDICATION OF THE EASEMENT AREA SHOWN FOR THE INSTALLATION OF A SANITARY SEWER AND WATER LINE TO THE PRINCE WILLIAM SERVICE AUTHORITY FOR THEIR OWNERSHIP, OPERATION & MAINTENANCE.

*Berrywood, Inc.*  
BERRYWOOD, INC. President

BERRYWOOD, INC.

COMMONWEALTH OF VIRGINIA:  
TOWN/CITY/COUNTY OF Prince William TO WIT:  
I, Melissa Lauren Rathgeber A NOTARY PUBLIC OF THE AND FOR THE TOWN/CITY/COUNTY AND STATE AFORESAID, WHOSE COMMISSION EXPIRES 01/31/2015 DO HEREBY CERTIFY THAT THE ABOVE NAME(S) AS SUCH SIGNED TO THE FOREGOING PLAT HAVE ACKNOWLEDGED THE SAME BEFORE ME IN MY TOWN/ CITY/COUNTY AND STATE AFORESAID:

GIVEN UNDER MY HAND THIS 24<sup>th</sup> DAY OF April 2014

*Melissa Lauren Rathgeber*  
NOTARY PUBLIC

MELISSA LAUREN RATHGEBER  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES JANUARY 31, 2015  
COMMISSION # 7374608

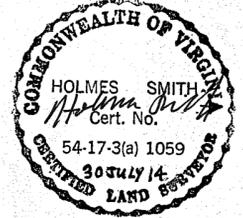
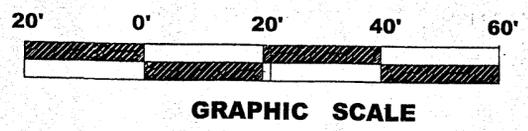
**SURVEYOR'S CERTIFICATE**

I, HOLMES SMITH, A DULY CERTIFIED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT GPIN 8393-64-3232 IS IN THE NAME OF BERRYWOOD, INC. AND ACQUIRED BY THEM FROM DENNIS M. & SHELLI G. ZAHORCHAK BY DEED DATED MAY 24, 2004 AND RECORDED AT INSTRUMENT #201104200033019 AMONG THE LAND RECORDS OF PRINCE WILLIAM COUNTY, VIRGINIA.

THIS PLAT OF SUBDIVISION IS BASED ON THE INFORMATION SHOWN ON A BOUNDARY SURVEY BY HOLMES SMITH, CLS, DATED JULY 21, 2001, WITH THE TRAVERSE ERROR OF CLOSURE RATIO LESS THAN 1:10,000. IRON PINS OR PIPES WERE SET AS SHOWN AT THE ORIGINAL LOT CORNERS AT THAT TIME IN ACCORDANCE WITH THE CODE OF THE COMMONWEALTH OF VIRGINIA.

GIVEN UNDER MY HAND THIS 30th DAY OF JULY, 2014

*Holmes Smith*  
HOLMES SMITH  
CERTIFIED LAND SURVEYOR



SUBDIVISION AND EASEMENT PLAT  
**RIVERTOWN OVERLOOK**

TOWN OF OCCOQUAN  
PRINCE WILLIAM COUNTY, VIRGINIA - REV. APR. 23, 2014  
SCALE: 1" = 20' JANUARY 15, 2003 REV. JULY 16, 2004

**HOLMES SMITH**  
ENGINEERING - SURVEYING - LAND PLANNING  
MANASSAS, VIRGINIA

Since "1969" (703)368-5829 (fax) (703) 366-3845





**TOWN OF OCCOQUAN**  
**TOWN COUNCIL MEETING**  
Agenda Communication

<b>9. Regular Business</b>	<b>Meeting Date:</b> February 7, 2017
<b>9 B:</b> Request to Award Contract for Drain and Asphalt Trail Installation at River Mill Park	

**Explanation and Summary:**

This is in follow up to previous conversations with the Town Council regarding the condition and annual maintenance requirements of the stone dust trail located within River Mill Park. Since installation, the top portion of the trail has experienced significant erosion issues due to water runoff from adjoining properties. Town staff has worked with Fairfax Water and obtained approval to replace the top portion of the stone dust trail with asphalt, as well as install a drainage system along the upper portion of the trail to redirect water flow and prevent future erosion issues. At this time, the lower portion of the trail will remain stone dust and require annual maintenance.

Town staff has reached out to Prince William County Public Works and requested a quote under a Mutual Aid Agreement between the County and Town to install the trail and drainage system. The County is preparing a quote to be submitted to the Town by February 7, 2017.

**Engineer's Recommendation:** Concur with Town Manager's recommendation.

**Town Attorney's Recommendation:** Concur with Town Manager's recommendation.

**Town Manager's Recommendation:** Recommend approval to contract with Prince William County for the installation of the trail and drainage system and set a not to exceed amount utilizing FY2017 CIP funds.

**Cost and Financing:** TBD  
**Account Number:** CIP - FY 2017

**Proposed/Suggested Motion:**

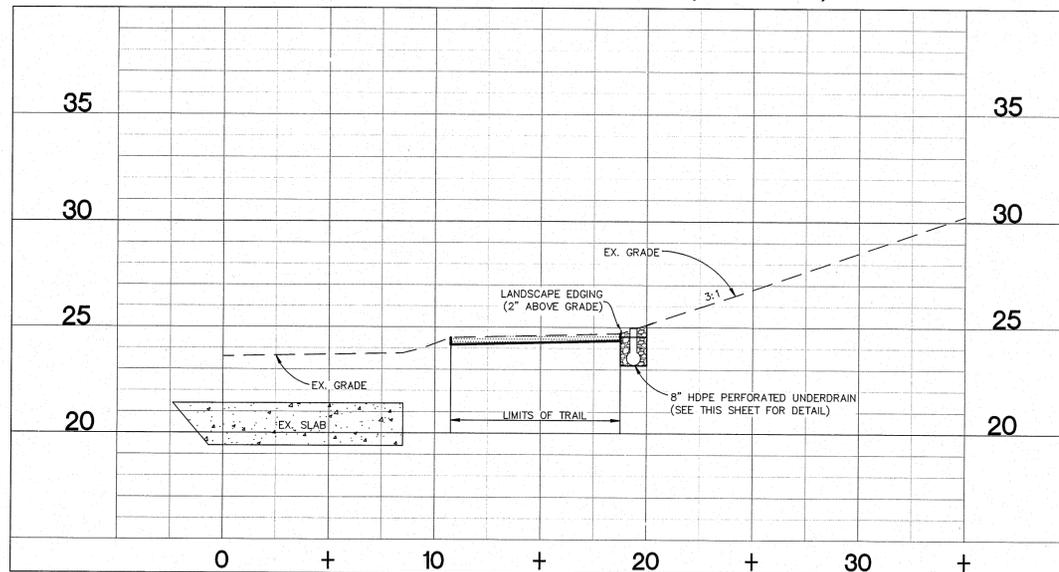
"I move to award a contract to Prince William County Public Works Department for the installation of an asphalt trail and drainage system within River Mill Park and set a not to exceed amount of \_\_\_\_\_ from the FY 2017 CIP fund."

OR

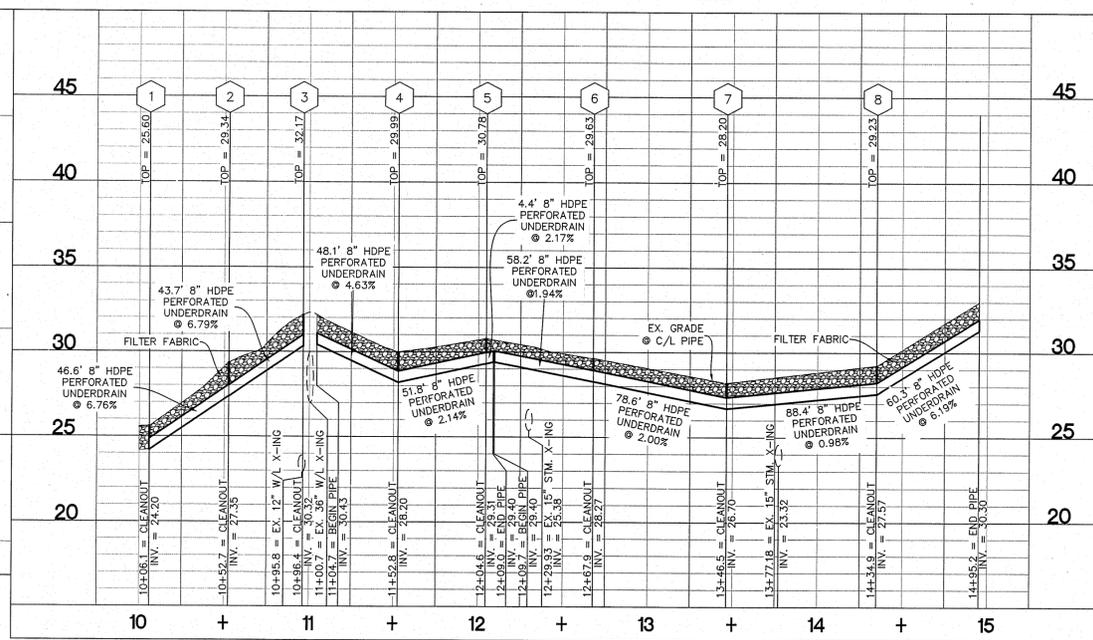
Other action Council deems appropriate.

**Attachments: (2)** Proposed Trail and Drain Improvements  
FY2017 CIP Projects Update

STONE DUST TRAIL SECTION (TYPICAL)



UNDERDRAIN PROFILE

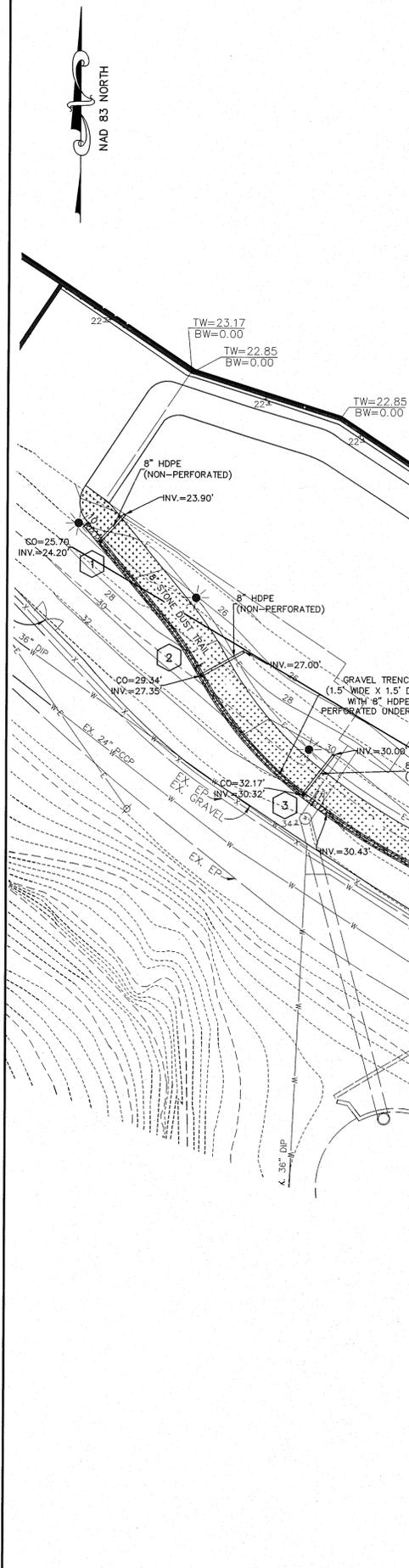
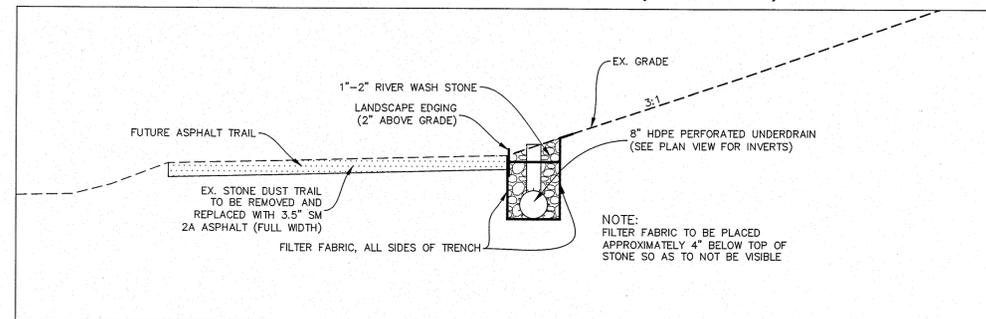


FAIRFAX WATER NOTES

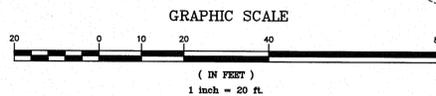
1. Contact Bill Harrison (703-289-6353) at least three (3) days before beginning any work and for any inspections.
2. A Fairfax Water inspector must be present during any excavation within five (5) feet of existing storm pipes.
3. A Fairfax Water inspector must be present for the excavation associated with the proposed 8\"/>

NOTE:  
EXISTING STORM CROSSINGS TAKEN FROM EXISTING RECORDS AND ARE TO BE FIELD VERIFIED PRIOR TO COMMENCEMENT OF CONSTRUCTION.

ULTIMATE TRAIL SECTION (TYPICAL)



— LIMITS OF ASPHALT



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 Engineers | Surveyors | Planners  
 www.engrgrupe.com

Central Office: 13580 Group Drive, Suite 301, Woodbridge, VA 22192, PH 703.670.0985, FX 703.670.7169  
 South Office: 4936 Southpoint Parkway, Fredericksburg, VA 22407, PH 540.710.5987, FX 540.710.5988

NO.	DATE	COUNTY	REVISIONS

**GRAVEL TRENCH PLAN**  
**RIVER MILL PARK**  
 TOWN OF OCCOQUAN, VIRGINIA

DATE: DECEMBER 2016  
 SCALE: 1"=20'  
 DESIGNER: KJA, SO  
 DRAFTER: KJA, JDL  
 FILE NO. M-3227  
 SHEET 1 of 31

### FY 2017 CIP Projects Tracking

Project	Category	Status	Budget	Actual	Difference	Notes
Town Hall Renovations	Building Maintenance/ Town Hall Renovations	COMPLETED	\$ 34,000	\$ 33,734	\$ (266)	Upstairs interior, exterior paint
Zoning Update	Zoning/Code Update	IN PROGRESS	\$ 20,000	\$ 33,022	\$ 13,022	Includes Legal Review and Community meeting
River Mill Park	River Mill Park Maintenance/ Trash Recycling Containers	IN PROGRESS	\$ 16,000	\$ 18,665	\$ 2,665	pet waste, sign, locks, trash cans gutters LOVE sign
River Mill Park	River Mill Park Project Overage	IN PROGRESS	\$ -	\$ 60,000	\$ 60,000	Construction Overage
River Mill Park	River Mill Park Trail Improv.	NOT STARTED	\$ -	\$ 10,000	\$ 10,000	Installation of paved trail and drainage
Document Management Project	Document Management Project	IN PROGRESS	\$ 10,000	\$ 2,000	\$ (8,000)	Document Destruction
A/V Equipment Town Hall	A/V Equipment Town Hall	COMPLETED	\$ 5,000	\$ 5,993	\$ 993	
Stormwater Management	Stormwater Management	NOT STARTED	\$ 5,000	\$ 5,000	\$ -	Intern, Grant, Mapping Project
Street Maintenance	Street Maintenance	NOT STARTED	\$ 15,000	\$ 15,000	\$ -	Poplar Alley/Speed Humps, Spring 17
Intersection Improvements	Intersection Improvement	NOT STARTED	\$ 10,000	\$ 10,000	\$ -	Install Crosswalk at Ellicott/Mill Spring 17
River Mill Park - Dehumidifier	River Mill Park	NOT STARTED	\$ -	\$ 5,000	\$ 5,000	Dehumidifier for downstairs
Parking/Traffic Study	Parking Traffic Study	NOT STARTED	\$10,000	\$10,000	\$ -	

\$ 125,000

**Planned CIP by 6/30/17 \$208,414**

**Full Budgeted FY CIP \$337,000**

**Difference to Budget \$128,586**

#### Delayed Projects from FY 17 CIP

Project	Budget	Status
In-Vehicle Laptop Replacement	\$ 2,000	Delay to FY18
Body/ In-Car Camera System	\$ 7,000	Delay to new Chief
Tanyard Hill Parcel - Site Research	\$ 5,000	Delay to 18 - Working on Proffer Release
Tree Canopy Maintenance	\$ 5,000	Included as part of Landscaping Contract
Gaslight Maintenance/Conversion	\$ 18,000	
Sidewalk Maintenance	\$ 20,000	Town Hall Replacement - Delay to FY18
Canoe Kayak Ramp	\$ 140,000	Delayed to FY18 due to grant timelines
Community Planning Project	\$ 15,000	Delay to FY18
<b>Total Available Funding</b>	<b>\$ 212,000</b>	<b>For other non budgeted CIP expenses in FY2017</b>



# TOWN OF OCCOQUAN

## TOWN COUNCIL MEETING

### Agenda Communication

<b>9. Regular Business</b>	<b>Meeting Date:</b> February 7, 2017
<b>9 C: Request to Approve an MOU for the NOVA Arts and Cultural District</b>	

**Explanation and Summary:**

The Town Council has recently reaffirmed the Council goals relating to community development and programming, and historic preservation and Town appearance. Additionally, in 2011, the Council began considering the use of quasi-public authorities, such as business overlay districts or park, cultural or other authorities. The charter which created the Strategic Planning Committee charged it with, among other things, researching and recommending a course of action on these types of entities, and how they could contribute to implementing a five to ten-year vision for Occoquan. Ultimately, the Committee recommended the creation of an Arts and Cultural District within the historic business district. VA Code §15.2-1129.1 outlines the creation of these districts and allows for the incentives a locality may provide in furtherance of this purpose attached.

Mayor Quist, in conjunction with the President of the Workhouse Arts Foundation and the Executive Director of NOVA Parks, has proposed the creation of a multi-jurisdictional Arts and Cultural District that would fit this definition and be formally recognized by the Commonwealth. Pending legislation at the state level proposes amending the language currently in the code to apply to multi-jurisdictional endeavors. If passed, Occoquan has the opportunity to work with these organizations to brand and promote the region as a preferred arts and cultural destination, as well as sponsor recreational and informational events that bring increased visitors, revenue, media attention, and synergy to the relationship.

**Town Attorney's Recommendation:** Recommend approval.

**Town Manager's Recommendation:** Recommend approval.

**Cost and Financing:** N/A

**Account Number:** N/A

**Proposed/Suggested Motion:**

"I move to approve the creation of a multi-jurisdictional Arts and Cultural District in Occoquan's historic business district, in conjunction with the Workhouse Arts Foundation and NOVA Parks, contingent upon the successful amendment to VA Code §15.2-1129.1, and permit the Mayor to sign a memorandum of understanding with the named partners."

OR

Other action Council deems appropriate.

**Attachments: (1)** Draft Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING AMONG  
the Workhouse Arts Foundation, the Town of Occoquan, and the NOVA Parks**

1. Parties. This Memorandum of Understanding (hereinafter referred to as “MOU”) is made and entered into by and among the Workhouse Arts Foundation, whose address is 9518 Workhouse Way, Lorton, VA 22079, and the Town of Occoquan whose address is 314 Mill Street, Occoquan, VA 22125, and the NOVA Parks (Northern Virginia Regional Park Authority), whose address is 5400 Ox Road, Fairfax Station, VA 22039.
  
2. Purpose. The purpose of this MOU is to establish the terms and conditions under which the NOVA Arts and Cultural District will function. The geographical boundaries of the designated NOVA Arts and Cultural District include the 55-acre property known as the Workhouse Arts Center managed by the Workhouse Arts Foundation, the historic business district of the Town of Occoquan measuring approximately 18 acres, and the 350-acre property known as Occoquan Regional Park managed and operated by the NOVA Parks.
  
3. Term of MOU. This MOU is effective upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU and shall remain in full force and effect indefinitely but will be required to renew annually to remain in full force.
  
4. Responsibilities of the Parties. All three parties agree to support the NOVA Arts and Cultural District in the following ways:
  - a. Each party will include on their respective websites the designation of the NOVA Arts and Cultural District and a link to a separate page dedicated to the designation.
  - b. Each party agrees to keep their respective area authorities apprised of activities and initiatives happening within the district. (will include the following entities: Fairfax County Board of Supervisors, Prince William County Board of Supervisors, the Town Council of the Town of Occoquan, the Board of Directors of the Workhouse Arts Foundation, and NOVA Parks.)
  - c. Workhouse Arts Foundation agrees to fund and support a webpage designated for the NOVA Arts and Cultural District which will include basic information about the NOVA Arts and Cultural District and also include links to the three parties’ respective websites.

- d. Parties agree to commission a logo for use on all three parties' respective websites, as well as in all NOVA Arts and Cultural District marketing materials. The parties will develop a budget for the cost of developing a logo and for ensuring it does not infringe any existing marks; \_\_\_\_\_ shall be the fiscal agent for issuing a contract to a design firm which shall produce at least three proposed logos. Each party will designate a person who shall serve on an ad hoc logo approval committee. The logo approval committee will provide direction to the logo design contractor and shall select by majority vote from among the proposed logos presented by the contractor. Each party shall be considered a joint owner of the mark represented by the logo and any service mark or trademark registrations associated with the mark and logo shall reflect such joint ownership. Each party shall have a perpetual, royalty-free, world-wide license to use the selected logo, including the right to make variations to the logo such as by changing or adding colors, or by adding the party's own logo or identifier, so long as the distinctive nature of the logo is preserved. No party shall transfer or assign its rights in the mark or logo without the prior written consent of the other two parties, which consent shall not be unreasonably withheld. In the event of any such approved transfer or assignment of rights, the transferee or assignee must agree to the conditions of use set forth in this MOU in order for the transfer or assignment to be effective.
- e. Each party will include the NOVA Arts and Cultural District designation in their materials, publications, and collateral whenever appropriate.
- f. Parties agree to meet no less frequently than annually for the purposes of staying in touch and up to date regarding the district, exploring shared initiatives and needs, collaborating on publicity efforts, and determining any action that needs to be taken in the name of the NOVA Arts and Cultural District.
- g. Parties agree that action taken on behalf of the NOVA Arts and Cultural District or in the name of the NOVA Arts and Cultural District must be agreed upon unanimously by all three entities, through their duly appointed heads.

## 5. General Provisions

- a. Amendments. Either party may request changes to this MOU. Any changes, modifications, revisions or amendments to this MOU which are mutually agreed upon by all three of the parties to this MOU shall be incorporated by written instrument, and effective when executed and signed by all parties to this MOU.

- b. **Applicable Law.** The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of Virginia. The courts of the State of Virginia shall have jurisdiction over any action arising out of this MOU and over the parties.
  - c. **Entirety of Agreement.** This MOU, consisting of three (3), pages, represents the entire agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
  - d. **Severability.** Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
  - e. **Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this MOU shall not be construed so as to create such status. The rights, duties and obligations contained in this MOU shall operate only between the three parties to this MOU, and shall inure solely to the benefit of the parties to this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only parties signatory to this MOU shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.
6. **Signatures.** In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

**The effective date of this MOU is the date of the signature last affixed to this page.**

Workhouse Arts Foundation, Inc.

Ava Spece, President and CEO

Date

Town of Occoquan

---

Elizabeth Quist, Mayor

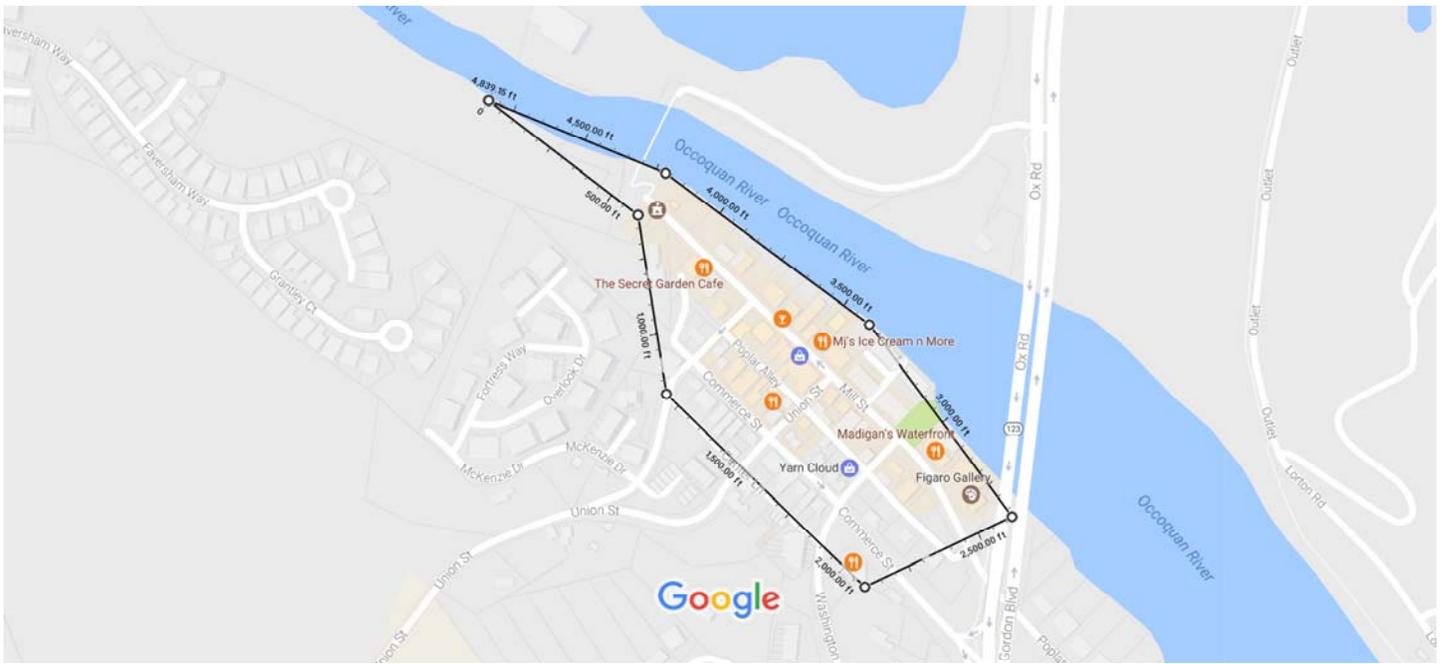
Date

NOVA Parks

---

Paul Gilbert, Executive Director

Date



Map data ©2017 Google 200 ft

Measure distance  
Total area: 796,195.95 ft<sup>2</sup> (73,969.02 m<sup>2</sup>)  
Total distance: 4,839.15 ft (1.47 km)

**Roughly 18.3 acres**



**TOWN OF OCCOQUAN**  
**TOWN COUNCIL MEETING**  
Agenda Communication

<b>9. Regular Business</b>	<b>Meeting Date:</b> February 7, 2017
<b>9 D: Request to Approve Certified Planning Commission Training</b>	

**Explanation and Summary:**

Per the Town Code, Section 2-243, Qualifications, appointments, removal, terms, compensation of members, Planning Commission members must receive certification within one year of appointment to the commission. The Town Council may waive the certification requirements.

The 89<sup>th</sup> Certified Planning Commissioner Program, held by Virginia Tech's Land Use Education Program, will be held in Purcellville (approximately one hour by car from Occoquan) with the opening session occurring March 3-4, 2017 and the closing session occurring May 12-13, 2017. The program also includes self-study assignments between the opening and closing sessions. Successful completion of this program results in certification of the individual as a Certified Planning Commissioner. The cost is \$500 per attendee, and includes all required materials, but does not include travel or lodging expenses. According to Town Code Section 2-243, the Town Council may provide for reimbursement of actual expenses incurred by members of the commission.

The FY 2018 Budget includes \$2,000 for Boards and Commission training. The total training and travel budget for the FY2018 Administration Division is \$8,300. To date, approximately \$4,500 has been spent in this category out of the Administration Division budget. Approximately \$3,800 is available for training and travel (not including the Public Safety division) for the remainder of FY2018.

The next Certified Planning Commissioner training program is scheduled for March 27 and 28, 2017 (opening) and June 5 and 6, 2017 (closing) in Glen Allen, which is approximately 1 hour and 30 minutes from Occoquan.

Information on the benefits of the program, as well as a schedule of all available 2017 training classes are attached.

**Town Attorney's Recommendation:** Concur with Town Manager's recommendation.

**Town Manager's Recommendation:** Recommend maintaining certification requirements and approving training funding for the current planning commission.

**Cost and Financing:** \$500 per participant

**Account Number:** Administration Division – Training and Travel

**Proposed/Suggested Motion:**

“I move to approve a not to exceed amount of \$2,500 for Planning Commissioner certification training.”

OR

Other action Council deems appropriate.

**Attachments: (1)** Certified Planning Commissioner Training Program Information and 2017 Schedule

# Land Use Education Program

education that brings Virginia's future into the present

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## Certified Planning Commissioners' Program

LUEP is committed to the goal of offering the best possible training to those who give of their time and talent to make their communities better places in which to live, work and do business.

A majority of LUEP registrants are planning commissioners (approximately 85%). Because our members face the pressures of accommodating growth in an appropriate manner, even though it often comes rapidly; we are keenly aware of their need for training and assistance. Such help and knowledge are essential to enable planning commissioners, boards of zoning appeals members, other public decision makers, and support personnel to properly make decisions. These public servants must meet their legal responsibilities, yet do so in a manner that will withstand legal challenges while earning the trust of those being served.

The Virginia Certified Planning Commissioners' Program (CPC) which has received both state and national recognition and awards, is designed to provide the legal and technical background needed by citizen-planners and decision makers. The course is the most thorough and comprehensive available. There is nothing like it available in the nation. It thoroughly covers the law and principles that guide the practices of planning so the student will learn and understand both "why" and "how" to properly handle the various matters that come before a planning commission. The techniques of making legally defensible planning and zoning decisions are literally built into the core of the course. Indeed, a growing number of planning commissions are insisting their members learn these techniques by requiring them to successfully complete this program within a reasonable period following their appointment or even as a prerequisite to their appointment.



Because the CPC program provides its students a thorough understanding of the legal background, the planning process and practices; many localities also find it to be excellent, invaluable and affordable training for elected officials. A growing number of localities are also requiring their administrative and support staff to complete the course as well because the process and procedures to make a proper and defensible planning decision must rest on a solid foundation, the construction of which begins at the administrative level.

The program is designed to provide a basic foundation of planning law, history, and to provide the technical expertise needed by planning commissioners to maximize their competency and ability to render legally defensible decisions and recommendations. This course is particularly important for planning commissioners whether they are newly appointed or are veteran commissioners who have never received formal training. The ever-growing and changing legislation which mandates and regulates the operation of planning programs and procedures makes training a necessity because the traditional on the job training is simply no longer adequate in the more technical, complex, and expensively litigious world of the 21<sup>st</sup> Century.

This training is also exceedingly helpful for elected officials, as well as others such as real estate persons, lawyers, builders and developers, engineers, architects and landscape architects. Moreover, members of citizen groups and community representatives, as well as anyone else who works with matters normally going before planning commissions for decisions will greatly benefit from the knowledge gained in this program.

Staff members serving planning commissions and elected officials are welcomed and encouraged to attend this program. It will provide them an invaluable foundation of general knowledge on which to build and improve their skills. They will not only be more knowledgeable about what their planning commission does, but what, why and how it must discharge its responsibilities.

## What does it take to complete the program?

In order to accommodate varying schedules, this certification program is presented several times each year— usually in early March, in June and again in September. A certificate is awarded to those who successfully complete all requirements.

The program is divided into sessions — two classroom and one home study session.

The two-day opening session features classroom instruction from 8:00 AM to 5:00 PM on the first day and from 8:00 AM to 4:30 PM on the second day. This first session focuses on the principles and practices of planning, the planning process, the legal foundations for planning, planning commission duties and responsibilities, the tools of planning, and the job of the planning commissioner.

The concluding session also features two days of classroom instruction. The topics covered include principles of meeting management, communication skills, decision making skills, conflict management, principles of community visioning, creative thinking and leadership principles.

Between the two classroom sessions, all students are required to read several books that are included in the registration fee and complete and submit a series of open-book tests and essays. Everyone is also required to attend a planning commission meeting in another locality and analyze and report on the meeting using an observation guide that is provided during the first session.

All instruction during the program is provided by a cadre of highly regarded, skilled professionals with considerable experience in their respective fields.

## OK. I'm interested. What now?

LUEP urges you to carefully consider this information and then act quickly to reserve your place in the course of your choice. Each offering fills rapidly and attendance is limited and registration is on a first-come, first-served basis.

The published registration fee for the program includes all education materials and most meals during both classroom sessions. Transportation and lodging costs are the personal responsibility of each registrant. The registration forms can be found at [www.planvirginia.com](http://www.planvirginia.com). Look under "Upcoming Trainings" or the "Education" menu to see a full list of upcoming events. We will provide first session hotel contact information and how program participants may obtain special lodging rates for their stays. If you consult the [current Training Schedule](#) and still have questions, please contact either [Michael Chandler](#), PlanVirginia Director of Education or [Jonah Fogel](#), LUEP Director for help.

## Certified Board of Zoning Appeals Program

The Certified BZA Program is designed to provide each registrant with a comprehensive overview of zoning in Virginia and the critical role the BZA plays in deciding issues involving zoning and zoning decisions. The course covers the legal foundations of zoning as well as the duties, powers and responsibilities of the BZA. The program also reviews the role of procedural and substantive due process in BZA deliberations as well as principles of meeting management and decision making. The course is especially valuable for newly appointed BZA members as well as zoning practitioners. Veteran members of local BZA's have also found the course to be of great value.

This event is composed of two training sessions (opening and closing sessions) and a Self-Study component lasting 10 weeks. The self-study component includes required readings and homework assignments. Attending and critiquing a BZA meeting is also required.

Want to receive news notifications and program announcements?

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Land Use Education Program

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Event	When	Location	Category	Email
<a href="#"><u>89th Certified Planning Commissioner Program</u></a>	Mar 3rd, 2017 <i>through</i> May 13th, 2017	Purcellville Town Hall Chambers 221 S NURSERY AVE PURCELLVILLE, VA 20132-3204 United States	Workshop	
<a href="#"><u>90th Certified Planning Commissioner Program</u></a>	Mar 27th, 2017 <i>through</i> Jun 6th, 2017	Short Pump Marriott 4240 DOMINION BLVD GLEN ALLEN, VA 23060-3391 United States	Workshop	
<a href="#"><u>Planning for Sign Code Success</u></a>	Apr 4th, 2017 <i>through</i> 3:00 PM	Richmond Center 2810 N PARHAM RD STE 300 RICHMOND, VA 23294-4422 United States	Workshop	<a href="mailto:jfogel@vt.edu">jfogel@vt.edu</a>
<a href="#"><u>2017 LUEP Legal Seminar</u></a>	Jun 2nd, 2017 <i>through</i> 4:00 PM	Charlottesville Omni Hotel 235 W MAIN ST CHARLOTTESVLE, VA 22902-5047 United States	Workshop	
<a href="#"><u>91st Certified Planning Commissioner Program</u></a>	Jun 19th, 2017 <i>through</i> Aug 25th, 2017	Wytheville 333 COMMUNITY BLVD WYTHEVILLE, VA 24382- 3375 United States	Workshop	
<a href="#"><u>36th Certified BZA Program</u></a>	Sep 11th, 2017 <i>through</i> Nov 20th, 2017	Short Pump Marriott 4240 DOMINION BLVD GLEN ALLEN, VA 23060-3391 United States	Workshop	
<a href="#"><u>92nd Certified Planning Commissioner Program</u></a>	Sep 25th, 2017 <i>through</i> Dec 8th, 2017	Short Pump Marriott 4240 DOMINION BLVD GLEN ALLEN, VA 23060-3391 United States	Workshop	



**TOWN OF OCCOQUAN**  
**TOWN COUNCIL MEETING**  
Agenda Communication

<b>9. Regular Business</b>	<b>Meeting Date:</b> February 7, 2017
<b>9 E: Request to Appoint Representative to Board of Zoning Appeals</b>	

**Explanation and Summary:**

Kevin Whaley's appointment to the Board of Zoning Appeals (BZA) expired on February 1, 2017. The Prince William County Circuit Court makes appointments to the Board of Zoning Appeals; however, the Town Council is asked to recommend three names to the Court for consideration and appointment of one individual.

The Board of Zoning Appeals is described in Chapter 2, Division 3 of the Town Code. The Board is to consist of five residents of the town, who are appointed by the circuit court for a five-year term. Members are able to serve consecutive terms. Mr. Whaley will continue to serve until he is reappointed or a successor is appointed and qualified.

**Town Attorney's Recommendation:** Recommend identifying three residents to submit to the Circuit Court for consideration and appointment on one individual to the BZA.

**Town Manager's Recommendation:** Concur with Town Attorney's recommendation.

**Cost and Financing:** N/A  
**Account Number:** N/A

**Proposed/Suggested Motion:**

"I move to submit the following individuals for consideration of appointment to the Board of Zoning Appeals to the Prince William County Circuit Court: \_\_\_\_\_."

OR

Other action Council deems appropriate.

**Attachments: (1)** Town Code, Chapter 2, Division 3, Board of Zoning Appeals

- (14) Review all proposed amendments to the town ordinances relating to the building and development process and make recommendations to the town council;
- (15) Conduct such studies as requested by the town council;
- (16) Perform special duties as prescribed by the town council; and
- (17) Make an annual report in July to the town council concerning commission activities.

(Code 1981, § 2-38.7)

**Sec. 2-249. Expenditures; gifts and donations.**

The commission may expend, under regular town procedure as provided by law, sums appropriated to it for its purposes and activities. The town may accept gifts and donations for commission purposes. Any moneys so accepted shall be deposited with the appropriate governing body in a special nonreverting local commission fund to be available for expenditure by the commission for the purpose designated by the donor. The town treasurer may issue warrants against such special fund only upon vouchers signed by the mayor, town clerk and the chairman and the secretary of the commission.

(Code 1981, § 2-38.8)

**Secs. 2-250—2-270. Reserved.**

DIVISION 3. BOARD OF ZONING APPEALS\*

**Sec. 2-271. Establishment.**

The board of zoning appeals created pursuant to authority contained in the Code of Virginia shall continue in force under the provisions of this division.

(Code 1981, § 2-39.1)

**Sec. 2-272. Membership.**

The board of zoning appeals shall consist of five residents of the town, who shall be appointed by the circuit court of the county for a five-year term. Appointments shall be made for such terms that the term of one member shall expire each year. An appointment to fill a vacancy shall be only for the unexpired portion of that term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

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\***Cross Reference**—Zoning, ch. 66

(Code 1981, § 2-39.2)

**Sec. 2-273. Conditions of tenure, conflict of interest, removal from office.**

Members of the board of zoning appeals shall hold no other public office in the town, except that one member may be a member of the planning commission. They must have certification within one year. Any member of the board having an interest in property related to an appeal to the board shall be disqualified to vote on that matter. Any board member may be removed for just cause by the court that appointed him, upon written charges and after a public hearing.

(Code 1981, § 2-39.3; Ord. of 5-13-1997, ch. 2, § 39.3)

**Sec. 2-274. Vacancies.**

The secretary of the board of zoning appeals shall notify the circuit court whenever a vacancy occurs and shall also provide the court notice at least 30 days in advance of the expiration of any term of office. Concurrently with any notice to the court, the secretary shall transmit to the mayor and council any recommendation the board may have with respect to a replacement. The council shall forward its recommendation to the circuit court.

(Code 1981, § 2-39.4)

**Sec. 2-275. Organization.**

The board of zoning appeals shall conduct an annual organizational meeting in the month of January, if possible, to elect a chairman, vice-chairman, secretary and such other officers as it deems necessary for the remainder of that calendar year. Officers may be reelected to succeed themselves. An officer vacancy may be filled by special election. Meetings of the board shall be held at the call of its chairman or acting chairman and at such times as the majority of the board may determine. When a regular or special meeting cannot be held at the scheduled time due to inclement weather, the chairman shall fix a date and time for the meeting to occur. Matters advertised for a meeting rescheduled due to inclement weather need not be readvertised if the advertisement stated that the meeting may be rescheduled in the event of inclement weather.

(Code 1981, § 2-39.5; Ord. O-2004-12, § 2-275)

**Sec. 2-276. Quorum.**

A quorum shall be at least three members unless as otherwise provided for by the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.).

(Code 1981, § 2-39.6)

**Sec. 2-277. Rules and regulations.**

(a) The board of zoning appeals may make, alter or rescind such rules, regulations and forms as it may consider necessary, consistent with the ordinances of the town and general laws of the commonwealth.

(b) Except for deliberating an appeal, all meetings of the board and voting shall be open to the public and shall otherwise conform to The Virginia Freedom of Information Act (Code of Virginia, § 2.1-340 et seq.).

(c) The board shall keep minutes of its proceedings, which shall reflect the vote of each member upon each question, or if absent or failing to vote, indicating such fact.

(d) The board shall keep records of its examinations, minutes of its proceedings, public hearings, public advertising and other official actions, all of which will be immediately filed with the town clerk and shall constitute a public record.

(e) All advertisements for public hearings and other notices shall conform to the requirements of the Code of Virginia.

(f) Except as otherwise provided in the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.), a favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to act.

(Code 1981, § 2-39.7)

**Sec. 2-278. Records and reports.**

In addition to records required by section 2-277, the board of zoning appeals shall submit, each January, an annual report of its activities to the mayor and town council.

(Code 1981, § 2-39.8)

**Sec. 2-279. Compensation and support services.**

Board of zoning appeals members may be compensated for their services at the discretion of and in such amounts as the town council may determine. Within the limits of funds appropriated by the council, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services when such services are not provided by or available from the town.

(Code 1981, § 2-39.9)

**Sec. 2-280. Powers and duties.**

The board of zoning appeals shall have the following powers and duties:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this division or of chapter 66.
- (2) To authorize upon appeal or original application in specific cases such variance as defined in Code of Virginia, § 15.2-2201, from the terms of chapter 66 as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of chapter 66 shall be observed and substantial justice done, as follows:
  - a. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of chapter 66, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation or development of property immediately adjacent thereto, the strict application of the terms of chapter 66 would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of chapter 66.
  - b. No such variance shall be authorized by the board unless it finds that:
    1. The strict application of chapter 66 would produce undue hardship.
    2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
    3. The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
  - c. No such variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.
  - d. No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to chapter 66.

- e. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (3) To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail. No such appeal shall be heard except after notice and hearing as provided by Code of Virginia, § 15.2-2204.
- (4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of chapter 66 for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance. No provision of this section shall be construed as granting to the board the power to rezone property.
- (5) To hear and decide applications for such special exceptions as may be authorized in chapter 66. The board may impose such conditions relating to the use provided for in the authorized special exceptions for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. No such special exception may be granted except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.
- (6) To revoke a special exception if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

(Code 1981, § 2-39.10)

**Sec. 2-281. Appeals to board.**

(a) *Generally.* An appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of Code of Virginia, § 15.2-2280 et seq., or chapter 66. Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given.

(b) *Application and fees.* An appeal must be taken within 30 days after the decision appealed from by filing, on the form provided, a notice of appeal with the zoning administrator and the board of zoning appeals, which appeal shall specify the grounds of the appeal, together with the fees as established in the current fee schedule. The application and accompanying maps, plans and other documentation constituting the record upon which the action appealed from was taken shall be transmitted promptly to the secretary of the board, who shall place the matter on the docket. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(c) *Notice and hearing required; planning commission recommendation.* After entering the appeal on the docket, the secretary of the board shall advertise a public hearing, give written notice to the parties in interest, and request the zoning administrator to transmit a copy of the application and his staff report to the planning commission; the planning commission may send a written recommendation to the board to appear as a party at the public hearing.

(d) *Burden of proof.* The applicant for a variance has the burden of proving that denial of a variance will result in unnecessary hardship, of proving that his hardship is due to chapter 66 itself, and of proving, to the satisfaction of the board, requirements for a variance stipulated in the Code of Virginia.

(e) *Findings required.* The board shall fix a reasonable time for the hearing of an application or appeal, give public notice as well as due notice to the parties in interest, and make its decision within 90 days of the filing of the application or appeal. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under chapter 66 or to effect any variance from chapter 66. The decision of the board must be based on the evidence adduced at a public hearing and must include findings of fact disclosing the evidence relied upon by the board and

otherwise state the business and grounds for its decision to assure that the provisions of the Code of Virginia and this division have been met.

(f) *Board to issue order.* Whenever the board shall grant a variance, the secretary of the board shall cause an order to be issued evidencing the grant and furnish copies of the order to the applicant, to the zoning administrator, to the town clerk, and to such other parties as deemed necessary.

(g) *Limitation on change.* In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the town attorney, modification is required to correct clerical or other nondiscretionary errors.

(Code 1981, §§ 2-39.11, 2-39.12)

#### **Sec. 2-282. Judicial review and relief.**

(a) *Certiorari to review decision of board.* Any person aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the town may present to the circuit court of the county a petition specifying the grounds on which aggrieved within 30 days after the filing of a decision in the office of the board.

(b) *Parties aggrieved entitled to writ.* Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board and shall prescribe the time within which a return must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) *Other parties to suit.* If the petition is presented by the town council, the council shall be party to the suit. The court may, likewise, admit as a party to the suit any person who, if the decision had been adverse, would have been authorized under this division to present a petition in the first instance.

(d) *Board to make return.* The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of the papers or of such portions of the papers as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(e) *Costs not allowed.* Costs shall not be allowed against the board unless it shall appear to the court that the board acted in bad faith or with malice in making the decision appealed from.

(Code 1981, § 2-39.13)

**Secs. 2-283--2-400. Reserved.**

DIVISION 4. ARCHITECTURAL REVIEW BOARD

**Sec. 2-401. Establishment.**

The architectural review board heretofore created shall continue in force under the provisions of this division.

(Code 1981, § 2-40.1)

**Sec. 2-402. Membership.**

The architectural review board (ARB) shall consist of nine members, appointed by the town council, of whom seven shall be appointed as regular members and two as alternate members to vote in the absence of any regular member. A quorum shall be four members. One regular member shall be a member of the town council, one regular member shall be a member of the planning commission, and one regular member may be a business owner in the town who shall be designated as the business representative. The business representative shall act as a liaison between town businesses and the ARB. Other members shall be appointed primarily on the basis of a knowledge and demonstrated interest in the historical heritage and architecture of the town. All members shall be residents of the town, except the business representative, who need not be a resident but shall be: (1) a business owner in the town; and (2) licensed and operating his or her business in accordance with all applicable laws and ordinances. All candidates for ARB membership (other than the council member and planning commission member) shall submit a written application to the town council.

(Code 1981, § 2-40.2; Ord. of 5-13-1997, ch. 2, § 40.2; Ord. O-2003-03, § 2-402; 12-2-2014 )

**Sec. 2-403. Term of office; removal; vacancies.**

The term of office of the members of the architectural review board shall be for three years, except that the terms of the councilmember and planning commission member shall correspond to their official tenure of office. Appointed members of the board serve at the pleasure of the council. Upon notice that the business representative no longer owns a business in the town, the council may remove that person from the board. Appointments to fill vacancies shall be only for the unexpired portion of the term and shall be done within 60