



**Planning Commission Agenda
Town of Orange Community Meeting Room
Monday, September 26, 2022**

6:00 p.m.

1. Call to order.

Roll Call:

Chairman Benjamin Sherman
Vice Chair Page Sullenberger
Commissioner Rita Carroll

Commissioner Donald Schafer
Commissioner LJ Taylor
Councilmember Timothy Bosford, *Ex-Officio*

- 2. Public Comment** – *The public is invited to make brief comments that would not necessarily require scheduling a separate Agenda item. It is asked that everyone speaking please state their name and address or group affiliation, if any.*
- 3. Planning Commission Meeting Minutes of August 22, 2022.** *(If no changes minutes stand approved)*
- 4. Discussion of Comprehensive Plan Updates.**
- 5. Continued Discussion of FY2022-FY2027 Capital Improvements Plan.**
- 6. Updates from Director of Community Development – *Happenings in Town.***
- 7. FOIA Overview – *Town Attorney***
- 8. Next Meeting – October 24th at 6:00 p.m.**
- 9. Adjournment.**

The Town of Orange Planning Commission Agenda Package is available on the Town's website for review at www.townoforangeva.org

Planning Commission Meeting Minutes
August 22, 2022
Page One

The Town of Orange Planning Commission held a meeting at 7:00 p.m., in the Town of Orange Community Meeting Room. Planning Commission members present were: Commissioners Benjamin Sherman, Donald Schafer, Page Sullenberger & L.J. Taylor. Staff members present were Director of Community Development John Cooley, AICP, CZA, Deputy Town Clerk Kimberly Strawser, CZA, CMC and Town Attorney Catherine Lea. Councilmember Timothy Bosford was also present.

CALL TO ORDER

The Director of Community Development called the meeting to order. The Deputy Town Clerk called roll and noted that there was a quorum present.

ELECTION OF CHAIR & VICE-CHAIR

The Director of Community Development reported that the Planning Commission bylaws state that the elections of Chair & Vice-Chair are to be done annually at the first regular July meeting with a term of one year.

The Director of Community Development called for nominations for Chairman.

Commissioner Sullenberger nominated Commissioner Sherman as Chairman for the coming year.

There being no other nominations for Chairman the Directory of Community Development called for motion.

Motion was made by Commissioner Sullenberger, seconded by Commissioner Schafer to elect Commissioner Sherman as Chairman of the Town of Orange Planning Commission with a term to expire June 30, 2023. On vote, Commissioner Sherman – aye, Commissioner Sullenberger – aye, Commissioner Schafer – aye, and Commissioner Taylor – aye. Motion carried unanimously.

Commissioner Taylor nominated Commissioner Sullenberger as Vice-Chair for the coming year.

There being no other nominations for Vice-Chair the Director of Community Development called for motion.

Motion was made by Commissioner Taylor, seconded by Commissioner Schafer to elect Commissioner Sullenberger as Vice-Chair of the Town of Orange Planning Commission with a term to expire June 30, 2023. On vote, Commissioner Sherman – aye, Commissioner Sullenberger – aye, Commissioner Schafer – aye, and Commissioner Taylor – aye. Motion carried unanimously.

Planning Commission Meeting Minutes
August 22, 2022
Page Two

PUBLIC COMMENT

There was no public comment.

PLANNING COMMISSION MEETING MINUTES OF JULY 26, 2021

The minutes stand approved.

DISCUSSION/REVIEW OF DOMINION ENERGY SITE PLAN-PROPANE FACILITY RENOVATION

The Director of Community Development gave an overview of the site plan submitted by Dominion Energy for the propane facility renovation located on Route 15. The Director of Community Development stated that they are proposing to add four large propane tanks to the property.

After discussion the Commission asked that staff request that they add dark sky compliant lights to the plan and to confirm the setbacks.

DISCUSSION OF FY2022-FY2027 CAPITAL IMPROVEMENTS PLAN (CIP)

The Director of Development reported that one sidewalk was completed at Madison Road/Spicers Mill intersection. The Director of Development stated that the only thing left to be installed were the pedestrian signals. The Director of Community Development stated further that the AARPA funds are being used towards the standpipe project. The Director of Community Development stated that it is the intent to have the project under contract by end of the year.

A discussion/review was held on the FY2022-FY2027 Capital Improvements Plan.

COMPREHENSIVE PLAN UPDATE

The Director of Community Development asked the Commission to review the Comprehensive Plan and to come up with their top 3 goals for each theme and get them back to him. The Director of Community Development stated that the Comprehensive Plan will state the goals for each theme and that the appendices will go into detail of how to achieve the goal.

A discussion was held.

Planning Commission Meeting Minutes
August 22, 2022
Page Three

ZONING ORDINANCE TWEAKS & UPDATES

The Director of Community Development reported that staff has been compiling some revisions to the zoning ordinance and will be bringing them to the Commission in the upcoming months.

MURALS

Chairman Sherman stated that he has been asked by many citizens about the proposed murals. Chairman Sherman stated that a public comment session should be held regarding the murals. The Director of Community Development stated the previous mural locations – Atlantic Union Bank & Craig Jacobs buildings have been pulled. The Director of Community Development stated further that the current proposed locations are the Buchanan & Kiguel building and the Butterfield building in the alley way off Main Street.

A lengthy discussion was held. It was consensus of the Commission for staff to move forward with approving the sign permit applications.

MEETINGS MOVING FORWARD/ORGANIZATIONAL

The Director of Community Development stated that staff has been in discussion regarding meeting times. The Director of Community Development requested that moving forward the Commission meet at 6p.m. instead of 7p.m. It was consensus of the Commission to hold meetings at 6p.m. and have one meeting a month, the 4th Monday of each month.

NEXT MEETING

The Commission will meet on Monday, September 26th at 6:00 p.m. The Director of Community Development stated the items on the agenda will be:

- Discussion of the Comprehensive Plan
- Discussion of Zoning Amendments.

Chairman Sherman suggested that Commissioner Taylor & Vice-Chair Sullenberger be the committee liaisons for the Comprehensive Plan revisions. They both agreed.

With no further business to come before the Commission, the meeting adjourned at 8:28 p.m.



AGENDA SUMMARY

September 26, 2022

Agenda Item #4

Discussion of Comprehensive Plan Updates

SUMMARY

Enclosed is the very, very rough DRAFT of the 2022-2023 Comprehensive Plan Updates.

STAFF RECOMMENDATION:

None.

PLANNING COMMISSION VOTE/ MOTION FOR CONSIDERATION:

None needed.

Creating not just a plan but a plan of action and implementation. That's a critical distinction. Lots of people, it seems, are good at creating plans, but it's a rare leader who knows how to move from plan to reality.

March 25, 2019

The Comprehensive Plan is supposed to be the guiding document to development within the Town. Our other documents (the zoning ordinance, the subdivision ordinance, Capital Improvement Program) are the statutory means for the Town to bring the Comprehensive Plan vision to fruition.

State code §15.2-2223 *Comprehensive Plan to be prepared and adopted; scope and purpose* states:

“The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.”

So, I am thinking that included with the top three action items (items which are measurable and able to be implemented) we look at the goals we wish to attain in each of the Themes within the Comprehensive Plan. These goals would be general in nature and be for the Immediate time frame, 1 to 3 years, the short term, 3 to 10 years, and the long term, 10 + years. The goals would be in line with “The comprehensive plan shall be general in nature”.

At some point we will need to discuss what studies, if any, the Planning Commission would like to undertake in support of this plan update.

When is the right time to get started? Who are the right people to lead this effort? What obstacles will they face? And how can we help them succeed?

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April 8, 2019 - My plan with the goals is to take them all and create a narrative instead of a bulleted list but I need the list to work from.

You will see from the rest of the document that I have gotten up to Theme 7. Some themes have more goals/action items listed than other. I need you help to not only fill in the holes in the information but to make sure that what I have put in the document you agree with.

What I would like to do at our next meeting, April 22, 2019, is begin with Theme #1 and work through the goals, action items. Once we have the theme goals written down with the action items, we can move on to Theme 2. I would like to get everyone to agree to the goals and action items for each theme before we move on. This may not be possible in all cases, but that is how I would like to proceed.

The quotes in the header and footer are just quotes that I liked and help me to focus on what I believe the plan should be. Not only a plan but also a plan of action and implementation (when used in conjunction with the zoning ordinance, subdivision ordinance, capital improvement plan, and any economic development strategies that are developed for the Town such as the ODA Downtown Development Planning Service 2016 report prepared by Barman Development Strategies. This report will be included as an appendix).

July 22, 2018 – Comments from April 22, 2019 Planning Commission meeting have been transcribed and included in this document.

1. How do we connect our themes?
2. Create a sustainable workforce that entices business to come to Orange
3. How do we synthesize all of this information in actionable items/goals? Employment Match, work force analyzation, Job matching recruiter
4. How do we connect workers to businesses where their abilities match the businesses need
5. What existing industries are close to Orange which other businesses could “tag” off of?
6. How can we use the ESRI data to the benefit of the Town?
7. Ideas, Momentum, Championship

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Vision:

Town of Orange

Comprehensive Plan Updated Vision Statement

Approved by Planning Commission June 24, 2013 (Tweaked by Planning Commission Nov, 2018)

“The Town of Orange is a rural, historic Virginia town that cares responsibly for its citizens and its heritage. Orange wishes to promote development and investment in the town which fosters long term sustainable growth that expands the economic, educational, cultural, housing, recreational, and transportation opportunities for all residents. The town further seeks to preserve its architectural and environmental assets as its legacy to future generations of town citizens.”

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Theme 1 – ECONOMY

We envision an economy where our existing assets (small size, low cost of living, architectural history, clean air and water, diversity of plants and animals, fields and forests, civic organizations and our friendly people) are seen as the foundation of our economic development. We look for businesses that work with localities as partners as we strive to ensure all of our citizens have the opportunity to succeed.

Immediate Goals (1 to 3 years):

- a. Make it easier to get to where you want to go using your preferred transportation method. (driving, walking, bike, scooter, etc.)
- b. Improve the overall look and walkability of Downtown
- c. Determine what types of jobs are needed in the Town – Nurses/IT (4-22-19)
- d. Determine what types of businesses to target and go after them – ODA is working on a grant to potentially help with this.
- e. Ensure that existing businesses know how much we appreciate them being here

Short Term Goals (3 to 10 years):

- a. Review all commercial/industrial areas in Town to determine if there are impediments to existing businesses expanding or new businesses opening their doors
- b. Identify local successful companies and talk with them about what they are looking for – Klockner, Aero Jet, Lohmann – Job Match recruiter (4-22-2019)
- c. Work with local businesses to see what they need in terms of materials, labor, etc. and how can we help them meet these demands/needs/etc.

Long Term Goals (10+ years):

- a. Entice business to locate in Towns. How can we position the Town to be attractive to manufacturers, dot.coms, big box, small box so that there are sustainable employment opportunities for Town residents. (4-22-2019)
- b. Help create a sustainable workforce that will help businesses grow
- c. Help to create an economy where people who grew up in Orange have the ability to either stay in the area and work or to go away to school and then come back to work. (4-22-19)
- d. How do we plan for change? Example Doubleday Books and American Press (books and magazines) both now gone. How can we set up the Town to weather changes?

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Dreams/Fantasy/Utopian Goals:

- a. Creating a diverse economy where businesses are clamoring to be located on Main Street which in turn forces professional offices to decide whether to pay the higher rents or move.

Action Items:

1. Create an Economic Development Plan of action and implementation for the Town.
2. Create a Master Marketing Plan for the Town.
3. Encourage the Orange Downtown Alliance to focus on their service area

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Theme 2 – PUBLIC FACILITIES/INFRASTRUCTURE/Community Facilities

The Town of Orange provides various services to the citizens, businesses and visitors in our Town. Services provided to Town residents encompass more than just water, sewer and trash disposal services. Public Facilities including parks, green spaces, Police Station, Town Hall, Public Works Facility, Water Plant, Sewer Plant, broadband, telecommunications, street lights, storm water conveyance,

Immediate Goals (1 to 3 years):

- a. Operate our water and sewer facilities to continue to provide valuable services to our users at a competitive rate based on industry standards
- b. Water availability – Manage, protect, conserve, maintain and improve the quality and quantity of water available to the Town of Orange citizens, businesses and water customers.
- c. Continue to improve the existing water and wastewater conveyance systems

Short Term Goals (3 to 10 years):

- a. Work with developers and property owners to implement Low Impact Development (LID) practices in all new development. Opportunities to implement LID within existing development should also be investigated.
- b. Recycling -
- c. Goal

Long Term Goals (10+ years):

- a. Replace aging infrastructure
- b. Goal
- c. Secure adequate water sources serving the Town of Orange water customers

Dreams/Fantasy/Utopian Goals:

- a.

Action Items:

1. Extend water and sewer service to unserved and underserved areas within the Town
2. Replace Standpipe and refurbish the concrete water storage reservoir
3. Identify and create alternative sources of water for use by Town residents other than the Rapidan River. As part of this, work with State and Federal politicians.

Orange Volunteer Fire Department ISO 3

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Theme 3 – EDUCATION

We envision an educational environment where all of our citizens are able to further their learning experiences allowing them to grow intellectually, spiritually and artistically. Whether their path is along the traditional education tract leading to college, technical training to support trades, continuing education for those looking to enhance or perhaps change careers, providing learning opportunities for those seeking knowledge/new experiences or if you are seeking to share your knowledge with others we want to help foster an environment where these, as well as other, opportunities exist for all of our citizens. Need support from the community. All these programs need to start now, every day we wait is another day we won't have the education system we need.

Immediate Goals (1 to 3 years):

- a. Provide all students opportunities within the Town to enhance their learning/education
 - a. GEDs
 - b. Trades education
 - c. Distance Learning
- b. Work to create a comprehensive list of all entities with educational programs within the Town
 - a. Orange County Schools – The Orange County High School, Prospect Heights Middle School, Orange Elementary and the Taylor Education Administrative Complex (TEAC) are all located within the Town
 - b. Grymes Memorial School
 - c. The Arts Center of Orange
 - d. Orange School of Performing Arts
 - e. The Music Room
 - f. The Boys and Girls Club
 - g. Headstart
 - h. Orange County Parks and Recreation
 - i. Orange County Library
 - j. VA. Extension Service
 - k. High School Nursing Program
 - l. High School Technical School
 - m. Others
- c. Talk to local companies about what skills they are in need of today.

Short Term Goals (3 to 10 years):

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- a. Use VDOT's Safe Route To Schools program to install sidewalks along streets leading to all three schools in Town

- b. Goal

- c. Goal

Long Term Goals (10+ years):

- a. Focus on identifying students strengths and then build on their strengths

- b. Goal

- c. Goal

Dreams/Fantasy/Utopian Goals:

- a. Creating a learning environment where all residents of the Town are able to achieve their educational passions.

Action Items:

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Theme 4 – TRANSPORTATION

We envision a transportation system where people, goods and services are able to travel safely and efficiently from one place to another. We also envision our transportation system to be affordable and constructed in a timely manner, provide access to all citizens, and minimize impacts to both our citizens and private properties.

Immediate Goals (1 to 3 years):

- a. Make it easier to get to where you want to go using your preferred transportation method. (driving, walking, bike, scooter, etc.). Goals should include Connectivity, Mobility, Safety and Improved Quality of Life.
- b. Continue to coordinate transportation projects with the appropriate external Federal, State and local organizations (FHWA, VDOT, RRRC) to ensure projects appropriate receive funding.
- c. Identify and pursue funding opportunities other than VDOT (public/private grants, low cost/interest free loans, other funding options) to aid in the completion of identified local transportation projects.

Short Term Goals (3 to 10 years):

- a. Upgrade, repair, and install sidewalks throughout Town to foster pedestrian activities.
- b. Goal
- c. Goal

Long Term Goals (10+ years):

- a. Reconstruct North Madison Road from its intersection with Spicers Mill Road to its intersection with Main Street. This work will include the replacement of utilities as well as streetscape improvements. Part of this project will include reviewing access management requirements for the corridor. Being within the Town's Urban Development Area (UDA) Overlay district may open up additional funding through VDOT.
- b. Reconstruct South Madison Road using VDOT Road Diet design guidelines.
- c. Goal

Dreams/Fantasy/Utopian Goals:

- a. Create a transportation system where people have multiple means of transportation (car, train, bicycle, scooter, foot, other) to get from their point of origin to the point of destination in the safest most efficient manner possible.

Action Items:

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Theme 5 – Architectural Assets and Aesthetics

We envision an architecturally appealing and walkable Town which respects our rural, historic heritage by encouraging preservation and renovation of existing historic structures while encouraging new development designs derived from our historic architecture. Respect historic values and preserve historic sites and buildings that represent period architecture or history in the Town of Orange. We will protect the existing street tree canopy while expanding the street tree canopy using a diversity of canopy trees. We will use design to improve the quality of life for those working, visiting, and living in the Town.

Immediate Goals (1 to 3 years):

- a. Protect existing historic resources throughout Town (ie Downtown Historic District buildings)
- b. Get ODA to focus on economic development through Historic Renovation – How is the question.
- c. Identify locations for new street trees to be planted. New tree plantings should use a diversity of canopy trees.
- d. Encourage new development to incorporate/utilize commercial and residential architectural features from adjacent neighborhoods/areas in Town. Build upon existing architectural features to develop quality design principles to enhance the community's quality of life.
- e. Encourage the continuation of the ongoing revitalization activities along the Main Street corridor as well as the rest of the Town.
- f. Guide contemporary development in a way which compliments the historic fabric of the Town and works to strengthen the overall character of the community.
- g.

Short Term Goals (3 to 10 years):

- a. Conduct survey of historic monuments, cemeteries and archeological sites in Town with goal of creating policies and regulations protecting identified historic sites.
- b. Create education program to educate and encourage property owners regarding protection of historic structures and architectural features.
- c. Continue to protect entrance corridor landscapes. This is not to say we will not develop the Town's entrance corridors, rather that we will develop the corridor in such a way as to visually enhance the entranceway into Town
- d. Establish historic districts in areas that can benefit from the special recognition and protection offered by quality design principles.

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Long Term Goals (10+ years):

- a. Goal
- b. Goal
- c. Goal

Dreams/Fantasy/Utopian Goals:

- a.

Action Items:

- b. List of historical resources
- c. Library of architectural resources
- d. Action Item

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Theme 6 - Environmental

Immediate Goals (1 to 3 years):

- h. Water quality/water conservation
- i. Air Quality – How is the Town's air quality? How to improve the air quality if we need to?
- j. Encourage environmentally friendly development practices that reduce the impact on the environment through "Green" and/or LEED building practices and neighborhood design.
- k. Where appropriate complete public projects in an environmentally sensitive manner utilizing "Green" or LEED building practices, site design/development and construction techniques.
- l. Encourage protection of natural resources and environmentally sensitive areas
- m. Encourage residents to plant trees on their properties
- n. Encourage residents to create rain gardens, using native species, on their property to reduce storm water runoff which could overwhelm the Town's storm water conveyance systems
- o. Recycling program
- p. Promote education of the public about issues of local and regional environmental concern.
- q. Encourage and recognize environmental stewardship in all aspects of Town life.

Short Term Goals (3 to 10 years):

- e. Goal
- f. Goal
- g. Goal

Long Term Goals (10+ years):

- d. Goal
- e. Goal
- f. Goal

Dreams/Fantasy/Utopian Goals:

- e. Replace all water distribution pipes owned by the Town.

Action Items:

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Theme 7 - Town and County Partnerships

The Town of Orange chooses to work with Orange County on projects beneficial to all residents of the County. The Town will work to ensure its citizens receive benefits from these partnerships. The Town is not subservient to the County but rather an equal partner.

Immediate Goals (1 to 3 years):

- r. Create a more formalized agreement between Town offices and County offices for projects within the Town.
- s. Fire/Rescue/Police
- t. Parks Planning, construction and management – Chatter Island walking path and dog park

Short Term Goals (3 to 10 years):

- h. Active Fiber Optic Network
- i. Economic Development
- j. Goal

Long Term Goals (10+ years):

- g. Goal
- h. Goal
- i. Goal

Dreams/Fantasy/Utopian Goals:

- f. In a perfect world we would all work together for the betterment of everyone. This seems to be an idea that remains just out of reach. Both the Town of Orange and Orange County could do a much better job communicating with each other and trying to work together instead of, as it appears, to always be working at cross purposes.

Action Items:

When is the right time to get started? Who are the right people to lead this effort? What obstacles will they face? And how can we help them succeed?

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Theme 8 - Public Safety, Fire and Rescue, Community Health and Government

Immediate Goals (1 to 3 years):

- u. Getting Rescue Squad in Town -
- v. Create/Update the concept of a Citizen's Police Academy to help educate the public on policing to create dialogue and support for the profession
- w. Work with citizens to create Neighborhood Watch programs

Short Term Goals (3 to 10 years):

- k. Goal
- l. Goal
- m. Goal

Long Term Goals (10+ years):

- j. Goal
- k. Goal
- l. Goal

Dreams/Fantasy/Utopian Goals:

- g.

Action Items:

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Theme 9 - The Arts

Immediate Goals (1 to 3 years):

- x. Goal
- y. Goal
- z. Goal

Short Term Goals (3 to 10 years):

- n. Goal
- o. Goal
- p. Goal

Long Term Goals (10+ years):

- m. Goal
- n. Goal
- o. Goal

Dreams/Fantasy/Utopian Goals:

- h.

Action Items:

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Theme 10 - Population/Demographics and Housing

Immediate Goals (1 to 3 years):

- aa. Work with residential developers to create new housing stock in the Town
- bb. Goal
- cc. Goal

Short Term Goals (3 to 10 years):

- q. Goal
- r. Goal
- s. Goal

Long Term Goals (10+ years):

- p. Goal
- q. Goal
- r. Goal

Dreams/Fantasy/Utopian Goals:

- i.

Action Items:

- a. Figure out how to use the demographics of the Town's citizens to target businesses to be invited to locate in Town

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Theme 11 - Recreation

Immediate Goals (1 to 3 years):

- dd. Plan and construct a multi use path on the Chatter Island property.
- ee. Plan and construct a dog park on the Chatter Island property.
- ff. Goal

Short Term Goals (3 to 10 years):

- t. Create a yearly budget of \$10,000.00 to purchase or maintain park equipment (Swings, Jungle Jims, benches, picnic tables, chess/checker tables, etc.)
- u. Goal
- v. Goal

Long Term Goals (10+ years):

- s. Goal
- t. Goal
- u. Goal

Dreams/Fantasy/Utopian Goals:

- j.

Action Items:

When is the right time to get started? Who are the right people to lead this effort? What obstacles will they face? And how can we help them succeed?

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Other Possible Themes:

- a. Implementation
- b. Mobility
- c. Revitalization Areas/Urban Development Areas

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Goals and action items which cross over between Themes:

Sidewalks

Broadband

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Creating not just a plan but a plan of action and implementation. That's a critical distinction. Lots of people, it seems, are good at creating plans, but it's a rare leader who knows how to move from plan to reality.

Appendices:

1. Town of Orange Parks Plan
2. Downtown Strategic Vision, July 2021, created by Downtown Strategies after meeting and discussions with Town stakeholders.
3. Downtown Development Planning Services 2016, created by Barman Development Strategies, LLC after meeting and discussions with Town stakeholders.

When is the right time to get started? Who are the right people to lead this effort? What obstacles will they face? And how can we help them succeed?



AGENDA SUMMARY

September 26, 2022

Agenda Item #5

Discussion of FY2022-FY2027 Capital Improvements Plan

SUMMARY

Review and discussion of the FY2022-FY2027 Capital Improvements Plan. The Director of Community Development will give a review of items that have been added/updated.

STAFF RECOMMENDATION:

None.

PLANNING COMMISSION VOTE/ MOTION FOR CONSIDERATION:

None.

TOWN OF ORANGE, VIRGINIA



FY 2022- FY 2027
CAPITAL IMPROVEMENTS PROGRAM

ADOPTED BY THE TOWN OF ORANGE PLANNING COMMISSION
Date:

1. Introduction: Town of Orange CIP: FY 2022 – FY 2027

Capital improvement planning is one of several tools a locality uses to implement its comprehensive plan, which generally outlines the future the locality desires for itself through the goals, objectives and implementation strategies contained therein. ***The purpose of the Capital Improvement Program (CIP) is to allow a locality to examine its current resources and to determine what future resources it needs. This is helpful for determining not only how much funding is needed to satisfy public facility needs but also when such funding is needed.***

Typically, the CIP covers a five-year period, with the first year adopted as the capital budget. Funding shown in subsequent years is not immediately committed but instead reflects an estimate of funding levels needed in the future for various facilities, equipment, etc. This plan was developed in 2021, and thus covers the FY 2022 capital budget as well as capital facilities cost projections for projects not scheduled for construction during FY 2022.

2. Planning Commission CIP Preparation

State statute designates the Planning Commission as the body generally responsible for the preparation and annual update of a locality's CIP. Section 15.2-2239 of the Code of Virginia, 1950, as amended, states the following:

A local planning commission may, and at the direction of the governing body shall, prepare and revise annually a capital improvement program based on the comprehensive plan of the locality for a period not to exceed the ensuing five years. The commission shall submit the program annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the locality, at such time as it or he shall direct. The capital improvement program shall include the commission's recommendation, and estimates of cost of the facilities and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. In the preparation of its capital budget recommendations, the commission shall consult with the chief administrative officer or other executive head of the government of the locality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary.

The Town of Orange Planning Commission has prepared this Capital Improvement Program with assistance from Town of Orange staff. The committee members for the preparation of this CIP were:

Benjamin Sherman	Chairman
Page Sullenberger	Vice Chairman
Donald Schafer	Commissioner

L.J. Taylor
Open
Tim Bosford

Commissioner
Commissioner
Ex-Officio

Staff Support was provided by:

Greg Woods
Dwight Baker
Wendy J. Chewning
John G. Cooley
Jeff Dodson
Kiline Madison
Dianna Gomez
Michelle Steinberger
Kimberly A. Strawser

Town Manager
Chief Water Plant Operator
Town Clerk
Director of Community Development
Director of Public Works
Chief of Police
Director of Finance
Chief Wastewater Plant Operator
Deputy Town Clerk

3. Definition of a Capital Project

A **Capital Improvement Project** is defined as a major, non-recurring annual expenditure of at least \$25,000 for the payment of a capital improvement asset which has a useful life of at least five (5) years including any such planning, feasibility, engineering, or design study related to such project. These projects are included in the CIP and do not necessarily include all capital assets of the Town.

(Definition approved by the Town of Orange Planning Commission on October 27, 2014)

4. FY 2022- FY 2027 Requests

Department Directors were asked to submit capital project requests. This information was subsequently reviewed and discussed by the committee members. Those departments and agencies represented were:

Police
Water
Wastewater
Public Works
Administration

Town staff developed a prioritization matrix including five CIP criteria; Health and Safety, Regulatory Compliance, Percent of Population Served, and Cost/Benefit or Avoided Costs, and Availability of Funds. For each request submitted, a weight, rating, and total score were computed. Weights for each of the four criteria are as follows:

	<u>Weight</u>	<u>Rating Range</u>
Health and Safety	10	1-10
Regulatory Compliance	5	1-10
Percent of Population Served	6	1-10
Cost/Benefit or Avoided Costs	7	1-10
Availability of Funds	10	1-10

Safeguards public health or safety
 Responds to Federal or State requirements
 Provides added capacity to serve growth
 Provides incentive to economic development
 Continues existing project
 Alleviates substandard conditions or deficiencies
 Improves quality of existing services/infrastructure
 Reduces long-term operating costs
 Responds to public demand
 Reflects comprehensive plan

Ranking results, implementation timeline, and funding sources are shown in the attached Appendices. The enclosed Plan includes other essential elements of Capital Improvements Planning:

- Funding Source
- Rank
- Relationship to Comprehensive Plan

Using the enclosed criteria, the #1 ranked item has the greatest priority for funding. There are a total of zero (0) projects ranked.

5. Funding Recommendations

Upon review of the CIP projects requested the Planning Commission approve \$0.00 in capital projects to be funded over the next five years, with \$0.00 of that requested for funding in FY2021. In the following pages, each requested capital project and specific funding source is briefly outlined.

Potential Funding Sources are:

General Fund

Reserve Fund

VDOT Funding (HB2, Revenue Sharing, HSIP, Safe Routes to School, etc.)

American Rescue Plan Act

Bonds

Bank Financing

Grants

Proffers
Donations
No Funding Source Identified

6. Priority Recommendations

Urgent – Highest Priority: Cannot be delayed: Needed immediately for health and safety

Necessary – Needed within 3 years to maintain basic level and quality of community services.

Desirable – Needed within 4-6 years to improve quality of level of service

Deferrable – Can be placed on hold until after 5 year scope of current CIP, but supports community development goals.

Premature – Needs more research, planning and coordination

Inconsistent – Contrary to land-use planning or community development goals

Projects Deleted from the Draft CIP due to completion:

- None at this time

Removed due to other reasons:

- None at this time

Projects moved to the Comprehensive Plan:

- None at this time

Town Departments:

- Town Manager
- Finance Department
- Police Department
- Department of Public Works
- Department of Community Development
- Water Treatment Plant
- Waste Water Treatment Plant

Possible Town CIP Projects

- Fire Hydrant Replacement
- Glebe Road Water Line
- Macon Road Water Tank Aerator

Road Construction

Description:

The Town of Orange Public Works Department, in its role of maintaining the public roads within the Town, has plans to re-construct the following roads (listed in order of priority):

Revenue Sharing Projects FY 24 and FY 25			
FY	Road	Total Funding	Town Portion
25	Caroline Street from W Main Street to Rt 15 S Intersection	\$238,048.00	\$119,024.00
26	Spicers Mill Road	\$105,140.00	\$52,570.00
25	Harper Drive	\$36,654.00	\$18,327.00
26	East Washington Street	\$27,308.00	\$13,654.00
26	Jefferson Street	\$117,478.00	\$58,739.00
26	Dabney Street	\$31,672.00	\$15,836.00
		\$596,402.00	\$278,150.00

Revenue Sharing Projects FY 28 and FY 29			
FY	Road	Total Funding	Town Portion
27	Porterfield Drive	\$398,837.00	\$199,419.00
27	Williams Drive	\$169,579.00	\$84,790.00
28	Dailey Drive	\$201,493.00	\$100,747.00
28	Berry Hill Road	\$104,975.00	\$52,488.00
		\$874,884.00	\$437,442.00

Relationship to Comprehensive Plan:

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Action PS16.5: Adequately fund Water Plant, Wastewater Plant, Public Works, Police, and Administrative Capital Needs to maintain Levels of Service Standards

Total Cost: \$1,471,286.00 (Town portion \$735,643.00)

Funding Source: 50% Local funds/50% Revenue Sharing Funds

Department Requesting: Public Works

Ranking:

Public Works Department Vehicles and Equipment

Description:

The Department of Public Works operates a fleet of vehicles and equipment in order to fulfill its core mission to maintain public infrastructure within the Town. As vehicles and equipment become worn or outdated, they must be replaced according to a schedule developed by the department in order to maintain existing levels of service. The priorities for new and used vehicle and equipment purchases during the ensuing five-year period covered by this CIP include (in priority order):

- ??? – 2022-2023

Relationship to Comprehensive Plan:

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Action PS16.5: Adequately fund Water Plant, Wastewater Plant, Public Works, Police, and Administrative Capital Needs to maintain Levels of Service Standards (Capital Items 2006 CIP).

Total Cost: \$130,000 (approximate per year average)

Funding Source: Local funds

Department Requesting: Public Works

Ranking:

Sidewalk Construction

Description

This project encompasses new infill construction of sidewalks providing pedestrians safe access to developed areas within the Town.

Relationship to Comprehensive Plan

Goal T2: Improve existing roads and transportation systems in a manner consistent with the Transportation Vision.

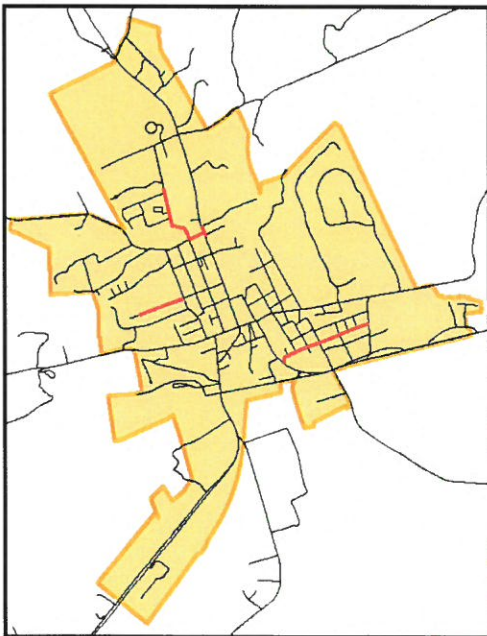
Action T4.2: Construct biking and pedestrian infrastructure in existing (already developed) parts of Town.

Total Cost: \$100,000.00 yearly

Funding Source: General Fund, VDOT grants, private funds

Department Requesting: Public Works

Ranking:



Potential Sidewalk Projects:

- Sidewalk infill in the N. Madison Road/Spicers Mill Intersection (engineering has begun)

- Spicers Mill Road between N. Madison Road and Belleveiw Ave/North Street (engineering to begin by August 1, 2021)
- North Street from Spicers Mill Road to the North Street Connector
- Newton Street from Montevista Avenue to the Veteran's Park entrance
- Jefferson Street from Byrd Street to Selma Road

Marshall Heights Standpipe and Concrete Reservoir Replacement/Repair

Description:

The Standpipe is over 110 years old and constructed of riveted steel plates. Underwater inspections and floating raft inspections were conducted in the interior of the Standpipe. The exterior was inspected by rappelling from the top of the tank. Although the Standpipe was repainted in 2001, there was significant corrosion observed on the interior seams and rivets as well as flaking paint on the exterior of the Standpipe. The steel plates have been severely pitted over time. Repairs have been made to extend the life of the Standpipe 10 years, but the engineers have determined that the Standpipe will need to be replaced.

The Concrete Reservoir was constructed in the 1950s and lined with a membrane liner in 1979. Further repairs were made in 2001. For its age, the liner appeared to be in good condition. The roof of the reservoir is spalling badly and reinforcing bars have been exposed. The roof of the reservoir leaks and the top surface of the roof was observed to be spalling as well. The structural evaluation of the reservoir concludes that it can be reconditioned for long term service, perhaps to 50 years.

Relationship to Comprehensive Plan:

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Action PS16.5: Adequately fund Water Plant, Wastewater Plant, Public Works, Police, and Administrative Capital Needs to maintain Levels of Service Standards (Capital Items 2006 CIP).

Total Cost: \$2,700,000

Funding Source: American Rescue Plan Act

Department Requesting: Public Works

Ranking:



Taylor Park Brick Paver Rehabilitation

Description:

This project would fix the brick pavers in Taylor Park which are being dislodged by the roots of adjacent trees and are becoming a “tripping” and safety issue.

Relationship to Comprehensive Plan:

Action T4.2: Construct biking and pedestrian infrastructure in existing (already developed) parts of Town.

Total Cost: \$50,000

Funding Sources: General Fund, Taylor Park Fund, Private Grants, Donations

Department Requesting: Public Works

Ranking:



"Hilltop Drive" Sewer Line Connection

Description: To connect Harper Drive/Berry Street and Porterfield Drive sewer lines.

Relationship to Comprehensive Plan:

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Total Cost To be determined during engineering phase

Funding Source: American Rescue Plan Act

Department Requesting: Public Works

Ranking:



Hilltop Drive Connector

Description:

To connect Harper Drive to Berry Street and connect Porterfield Drive to Hilltop Drive, this would improve and give alternate routes to Route 20.

Relationship to Comprehensive Plan:

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Goal T2: Improve existing roads and transportation systems in a manner consistent with the Transportation Vision.

Total Cost

To be determine during engineering phase

Funding Source:

VDOT Urban Funds, Revenue Sharing, Town Matching Funds, American Rescue Plan Act

Department Requesting:

Public Works

Ranking:



Orange Village Shopping Center Traffic Circle

Description:

As traffic counts increase on Route 15 through Town, and as the Orange Village Shopping Center continues to grow, traffic conflicts at the entrances are increasing. Working with the VDOT, a proposed traffic circle was designed to help mitigate the traffic conflicts at the northern entrance to the shopping center.

Relationship to Comprehensive Plan:

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Goal T2: Improve existing roads and transportation systems in a manner consistent with the Transportation Vision.

Total Cost \$2,000,000.00

Funding Source: VDOT Urban Funds, Revenue Sharing, Highway Safety Improvement (HSIP) Funds, Town Matching Funds

Department Requesting: Community Development

Ranking:



Madison Road Utility Rehabilitation and Road Reconstruction

Description:

The underground utility infrastructure beneath Madison Road/Route 15, in many cases, is so old there is no documentation as to when it was constructed. Recently, storm sewer lines in front of 135 N. Madison Road (Domino's Pizza) collapsed, requiring emergency work by the Town's Public Works department. The Town has experienced other utility failures along N. Madison Road and this project would address the rehabilitation of the underground utilities while reconstructing N. Madison Road including updated streetscapes with wider sidewalks, street trees, benches, and street lights.

Relationship to Comprehensive Plan:

Goal T2: Improve existing roads and transportation systems in a manner consistent with the Transportation Vision.

Goal T4: Encourage alternatives to vehicular use to increase pedestrian-friendliness of Orange

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Total Cost \$10,000,000 plus

Funding Source: VDOT: Revenue Sharing, Six Year Improvement or Smart Scale, Highway Safety Improvement Funding, Town Matching Funds

Department Requesting: Public Works

Ranking:

Spicer's Mill Road Culvert and Bridge Replacement

Description

Replacement of the culvert crossing at Baylor Creek. This project includes replacing the two existing culverts north of the box culvert and restoration work on the unnamed tributary of Baylor Creek.

Relationship to Comprehensive Plan

Action I11.4: Reconstruct Spicer's Mill Culvert.

Total Cost: \$3,000,000.00

Funding Source: VDOT and Town funding

Department Requesting: Public Works and Community Development

Ranking:

Millimeter Screen Installation for Water Plant Water Intake

Description

As part of the renewal of the Town's water withdraw permit, a new intake with a millimeter screen will need to be constructed. This work does not have a timeline for engineering and construction at this time.

Relationship to Comprehensive Plan

Goal PS16: Ensure that public facilities are constructed and maintained to meet Levels of Service standards for different Planning Sectors in Town as articulated through specific Planning Sector plans.

Total Cost: \$1,000,000.00

Funding Source: Town, Grants

Department Requesting: Water Treatment Plant

Ranking:

Orange Transportation Center Streetscape Enhancement Project

Description

This project covers sidewalks, lighting and utility improvements in the vicinity of the Orange Train Depot within the Orange Commercial Historic District.

Relationship to Comprehensive Plan

T4.2

T4.2.3

T5

Total Cost:

Section A: RR Tracks to Madison Road:			
Engineering:	\$150,000.00	Construction:	\$800,000.00
Section B: Madison Road to Belleview Ave			
Engineering	\$225,000.00	Construction	\$1,400,000.00
Section C: Belleview Ave to Caroline Street:			
Engineering:	\$100,000.00	Construction	\$500,000.00
Totals:	\$475,000.00		\$2,700,000.00

Funding Source: VDOT, ToO General Fund

Department Requesting: Community Development

Ranking:

Need picture of completed Main Street project

Madison Road Stormwater Drainage Rehabilitation and Reconstruction Project

Description

Due to excessive flooding on Madison Road between Nelson Street and Spicers Mill Road, Town staff worked with VDOT on a drainage improvement project

Relationship to Comprehensive Plan

Goal I11

Goal I12

Action I 2.3 – Build Town Wide Stormwater Facilities

Total Cost:

Engineering Design	\$200,000.00
Right of Way	\$100,000.00
Construction	\$1,000,000.00

Phasing:

- Newton Street to Woodmark Drive
- Washington Street to Newton Street
- Main Street to Newton Street

Funding Source: VDOT, General Fund,

Department Requesting: Community Development

Ranking:



Improvement of At-Grade Railroad Crossing within Town

Description

Over the years, the railroad crossings in Town have been repaired and repaved by railroad personnel. Unfortunately, these repairs have been in support of railroad needs not the public at large (driving, pedestrian). The Town envisions at grade railroad crossing that meet the needs of all those using the crossing including trains, pedestrians and the driving public.

Relationship to Comprehensive Plan

Goal T2

Total Cost: \$100,000.00 per crossing:

Church Street

Main Street

May-Fray Avenue

Funding Source: VDOT, General Fund

Department Requesting: Community Development

Ranking:

<https://www.centurygrp.com/products/railroad-grade-crossings/>



Hilltop Drive Connection

Description

Hilltop Drive is an unconstructed section of roadway which would connect Berry Street to Harper Drive as well as Porterfield Drive. This would provide people living, working and traveling in the Town another, shorter route to Route 20. This project would include upgrading the Town's sewer infrastructure, constructing the sewer infrastructure, running water laterals to the edge of the right of way, constructing the curb and gutter as well as the road.

Relationship to Comprehensive Plan

Total Cost:

Funding Source: VDOT, General Fund, Water Fund, Sewer Fund

Department Requesting: Community Development

Ranking:

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South Madison Road Diet

Description

South Madison Road was constructed in the early 1970's as an easier truck connection between Madison Road and Caroline Street. As VDOT was in the process of 4-laning Route 15 between Culpeper and Zion Crossroad, S. Madison Road Connector was 4-laned from Main Street to Caroline Street

Relationship to Comprehensive Plan

Total Cost:

Funding Source:

Department Requesting:

Ranking:

Name of Project

Description

Relationship to Comprehensive Plan

Total Cost:

Funding Source:

Department Requesting:

Ranking:

Name of Project

Description

Relationship to Comprehensive Plan

Total Cost:

Funding Source:

Department Requesting:

Ranking:

Name of Project

Description

Relationship to Comprehensive Plan

Total Cost:

Funding Source:

Department Requesting:

Ranking:



AGENDA SUMMARY
September 26, 2022
Agenda Item #7

FOIA Overview

SUMMARY

The Town Attorney will give an overview on FOIA.

STAFF RECOMMENDATION:

None.

PLANNING COMMISSION VOTE/ MOTION FOR CONSIDERATION:

None needed.

Virginia Freedom of Information Act: Council Training

Presented By:
Catherine B. Lea
Town Attorney
Town of Orange Virginia

The Act

The Virginia FOIA is codified in Sections 2.2-3700 to 2.2-3714. Of the Code of Virginia

<https://law.lis.virginia.gov/vacodepopularnames/virginia-freedom-of-information-act/>

A BAR:

FOIA -

APPLIES as an everyday application of Government of, by and for the
People

BALANCES Right of Access with the Need for Government to Function

ASSIGNS predictable procedure which must be followed

RELATES to Public Records

FOIA OFFICERS:

Local public bodies, subject to FOIA, must appoint a FOIA officer whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.

Any such FOIA officer shall

possess specific knowledge of the provisions of this chapter

be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (the Council) or through an online course offered by the Council.

PUBLIC RECORDS

- Regardless of physical form or characteristic
- However stored
- Owned or prepared or in the possession of a public body or its officers, employees or agents in the transaction of public business.

EXCEPTION: It is not a public record if it is not in the transaction of public business

What are public records?

A "public record" is any writing or recording, in any format, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. For example, public records may be in the form of handwritten notes, typewritten documents, electronic files, audio or video recordings, photographs, or any other written or recorded media.

Are drafts or preliminary versions considered public records?

Yes!

The definition of "public record" does not distinguish between draft or preliminary versions and final versions, so both are considered public records under FOIA.

MYTHS DEBUNKED

1. FOIA provides for RECORDS, not explanations
2. Records may be Inspected or Copied
3. Records are not free
4. FOIA does not prohibit the release of some records
5. There is no such thing as an informal (or formal) request for records
6. FOIA requests do not have to be in writing
7. FOIA requests don't have to say "FOIA"

WHO can make a request Under FOIA?

Citizens of the Commonwealth

Representatives of newspapers and magazines
with circulation in the Commonwealth

Representatives of radio and television stations
broadcasting in or into the Commonwealth.

BUT...

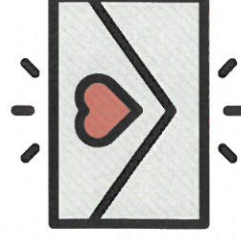
Anyone can get a Virginia
citizen to make a request
on his or her behalf.

The requestor's motives
for the records are
immaterial to the validity
of the request...

Does FOIA Require:

A Written Request?

No! A written request is not required.
However, from a practical point of view, it
is suggested that the request be made in
writing (or use any request form provided
by the public body). Writing is recourse for
both parties!



DOES FOIA Permit Localities to ...

Require that Requesters fill out a form?

No! A locality may request that the requester fill out a form, but the form cannot be a requirement.

It's recommended that the FOIA officer fill out the form for the requester if they refuse - writing is recourse!

Require that Requesters provide their name and legal address?

Yes! The locality may require this information, although FOIA does not mandate that the locality get identification before responding.

FOIA Requires:

5 working days to produce records

Yes! Here are the records!



OR 5 working days for another permitted response:

- Yes, but we need more time.
 - No, those records are exempt
- OR
- These records don't exist (or cannot be located)

NOTE: Count the day AFTER receipt of the request as day one!

5 Permissible Responses:

1. Provide the requested records to the requester;
2. The requested records are being entirely withheld because their release is prohibited by law or the custodian has exercised his discretion to withhold the records in accordance with FOIA;
3. The requested records are being provided in part and are being withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records in accordance with FOIA;
4. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body; or
5. It is not practically possible to provide the requested records OR to determine whether they are available within the five-work-day period, and the public body needs an additional seven work days in which to provide one of the four preceding responses.

If the answer is NO (entirely or partly withheld):

The response must be in writing and

Identify with reasonable particularity the subject matter of withheld records and Cite, as to each category of withheld records, the specific section of the Code of Virginia that authorizes the records to be withheld.

If the records are being entirely withheld (i.e., response 2) then the response must also identify with reasonable particularity the volume of the withheld records.

If the answer is “we cannot find it” or “it doesn’t exist”:

The response must be in writing and

If the public body knows that another public body has the records, it must provide contact information for the other public body.

If the answer is “we need more time”:

And the locality would like 7 additional days to respond,

the response must be in writing and

It must specify the conditions that make production of the records within the five-work-day period impossible.

If the a record contains both exempt and non-exempt information:

Generally, if a record contains exempt and nonexempt information, the public body must release the record and delete or excise the exempt portion of the record.

If the locality would have to create a record in response to a FOIA request:

Generally, no public body is required to create a new record if the requested record does not already exist.

However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

WHAT FEES?

You can charge fees for responding to a FOIA Request, but localities are expected to minimize the cost to requestors:

A public body may make reasonable charges for its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. A public body may not charge extraneous or surplus fees unrelated to the production of the records. [NOTE: This means that a public body cannot factor in expenses such as overhead or the cost of benefits paid to employees.] Charges for copies must not exceed the actual cost of duplication.

A citizen may request that the public body estimate the cost of supplying the requested records in advance.

CHARGE FOR:

- Search Cost
- Access Fees
- Supply Costs
- Duplication Costs

Where charges to respond to a FOIA request are expected to exceed \$200, you **MUST** provide an estimate, and you **MAY** require the money up front, which will be applied to the final cost. If a public body asks for the advance deposit, the five-working-day period to respond to the request will be tolled until the deposit is paid.

FOIA contains over 100 exemptions for records. Although many of these exemptions apply to specific agencies or to very content-specific records, there are several records exemptions of general applicability that may be used by virtually all public bodies.

The following slides give examples

Refer to the Code for specifics...

EXEMPTIONS

§ 2.2-3705.1(1): Personnel.

Provides an exemption for: Personnel records containing information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

§ 2.2-3705.1(2): Attorney-client privilege

Provides an exemption for: Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other records protected by the attorney-client privilege.

§ 2.2-3705.1(3): Attorney work product

Provides an exemption for: Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

§ 2.2-3705.1(4): Tests and examinations

Provides an exemption for: Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body. (see code section for further detail)

§ 2.2-3705.1(5): Closed meetings

Provides an exemption for: Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

Discussion/consideration...

- ... or interviews of prospective candidates for employment.
- ... of the acquisition of real property for a public purpose.
- ... the protection of the privacy of individuals in personal matters not related to public business.
- ... concerning a prospective business or industry's interest in locating or expanding its facilities in the community.
- ... of the investment of public funds where competition or bargaining is involved.
- ... or consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation.
- ... or consultation with legal counsel employed or retained by a public body regarding specific legal matters.
- ... of strategy with respect to the negotiation of a hazardous waste siting agreement.
- ... of plans to protect public safety.
- ... of proprietary records and trade secrets.

(See the Code for more information)

§ 2.2-3705.1(5): Closed meetings

Continued...

No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

§ 2.2-3705.1(7): Computer software

Provides an exemption for: Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

§ 2.2-3705.1(8): Cost estimates of real property.

Provides an exemption for: Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

§ 2.2-3705.1(10): Certain personal information.

Provides an exemption for: Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record.

§ 2.2-3705.1(12): Contracts.

Provides an exemption for: Records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. Such records shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of records relating to such transactions shall be governed by the Virginia Public Procurement Act.

§ 2.2-3705.5(1):

Health. Provides an exemption for: Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03. Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. (see code section for more detail)

§ 2.2-3705.6(3):

Economic development and retention.

Provides an exemption for: Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected.

§ 2.2-3705.6(10):

Prequalification to bid.

Provides an exemption for: Confidential information designated as provided in subsection F of § 2.2-434.2 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

ENFORCEMENT

2.2-3714

Failure to follow FOIA is deemed a violation and can result in:

FOIA Lawsuit filed by the aggrieved party

Burden of Proof is on the government

PENALTIES INCLUDE:

- Pay legal bills of the petitioner
- Mandamus or Injunction
- BAD PRESS

For "KNOWING AND WILLFUL" violations:

- Up to \$2,000 in fines for first violation
- Up to \$5,000 in fines for subsequent violations
- Paid by VIOLATOR, not the locality!

§ 30-179

Virginia Freedom of Information Advisory Council; advisory opinions, evidence in civil proceeding.

Provides that any officer, employee, or member of a public body alleged to have willfully and knowingly violated the Virginia Freedom of Information Act who acted in good faith reliance upon an advisory opinion issued by the Virginia Freedom of Information Advisory Council may introduce such opinion as evidence that the alleged violation was not made willfully and knowingly.

Virginia Freedom of Information Act; definition of trade secret.

Defines the term "trade secret," for the purposes of the Virginia Freedom of Information Act, as meaning the same as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.).

§ 2.2-3708.2

Virginia Freedom of Information Act; meetings held through electronic communication means.

Certain requirements of current law regarding participation in public meetings through electronic communication means do not apply to meetings held to address a state of emergency declared by the Governor, specifically the requirements that public bodies (i) adopt a written policy regarding participation by electronic communication, (ii) have a quorum of a public body physically assembled at a primary or central location, and (iii) make arrangements for the voice of any member participating from a remote location to be heard by all persons at the primary or central location.

§ 2.2-3714 Virginia Freedom of Information Act (FOIA); violations and civil penalties.

Provides that in addition to any penalties imposed under FOIA, (i) if a court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of FOIA because such officer, employee, or member of a public body altered or destroyed the requested public records with the intention of avoiding the provisions of FOIA prior to the expiration of the applicable record retention period set pursuant to the Virginia Public Records Act, the court may impose upon such officer, employee, or member in his individual capacity a civil penalty of up to \$100 per record altered or destroyed and (ii) if a court finds that a member of a public body voted to certify a closed meeting and at the time of such certification an attorney representing the body was present and such certification was not in accordance with the requirements of FOIA, the court may impose on each such member voting to certify in his individual capacity a civil penalty of up to \$1000 against the public body.

FOIA Council:

Our best resource

- Call FOIA Council with ANY questions.
- There are NO stupid FOIA questions.
- Set "institutional culture" for compliance with FOIA.
- FOIA says --How and When to ACT; Not how to FEEL.
- It is NOT our individual sense of fairness, but the collective sense expressed in the law.

1-866-448-4100 (toll free)
804-225-3056

Email: foiacouncil@dls.virginia.gov

Website:

<http://foiacouncil.dls.virginia.gov>

RECORDS

WHAT is a PUBLIC RECORD?

ALL writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.

All public records are open to the public UNLESS a specific exemption in law allows the record to be withheld.

WHAT about RETENTION of PUBLIC RECORDS?

Public records MUST be retained according to retention schedules set by the Library of Virginia. The length of retention depends on the content of the record. After expiration of the applicable retention period, the records may be destroyed or discarded.

E-MAILS

Emails that relate to the public business are public records, regardless whether you use your home or office computer.

FOIA AND LOCAL GOVERNMENT OFFICIALS

As such, these emails must be retained as required by the VA Public Records Act. For practical advice for email use, access and retention, see FOIA Council handout entitled "Email: Use, Access and Retention" available on the FOIA Council website.

Resources for FOIA Questions

VA Freedom of Information Advisory Council:

Alan Gernhardt, Executive Director

Ashley Binns, Attorney

Email: foiacouncil@dls.virginia.gov

Telephone: (804) 698-1810

Toll-Free: 1-866-448-4100

foiacouncil.dls.virginia.gov

Virginia Association of Counties:

Phyllis Errico, General Counsel

Email: perrico@vaco.org

Telephone: (804) 343-2509

www.vaco.org

Virginia Municipal League:

Michelle Gowdy, General Counsel

Email: mgowdy@vml.org

Telephone: (804) 523-8525

www.vml.org

Library of Virginia: (records management Q's)

Glenn Smith, Records Analyst

Email: Glenn.Smith@lva.virginia.gov

Telephone: (804) 692-3604

<http://www.lva.virginia.gov/agencies/records/index.htm>

The Freedom of Information Act and Local Government Officials



*Prepared by the Virginia Freedom
of Information Advisory Council
in cooperation with
the Virginia Association of
Counties
and
the Virginia Municipal League*



POLICY OF FOIA

By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to records in the custody of public officials and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. Unless a public body or public official specifically elects to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

MEETING REQUIREMENTS

What is considered a MEETING under FOIA for board of supervisors or city or town council members?

ANY gathering, including work sessions, of the constituent membership, sitting (or through telephonic or video equipment pursuant to 2.2-3708.2) as:

- the board or council, or
- an informal assemblage of
 - (i) as many as three members, or
 - (ii) a quorum, if less than three, of the constituent membership,

WHEREVER the gathering is held; **WITH** or **WITHOUT** minutes being taken; **AND**

WHETHER OR **NOT** votes are cast.

NOTE: This also applies to **ANY** meeting, including work sessions, of any subgroup of the board or council.

WHAT IS *NOT* A MEETING?

- The gathering of employees; or
- The gathering or attendance of two or more board/council members at:

Any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance

WHAT IS *NOT* A MEETING (cont'd)

was not called or prearranged with any purpose of discussing or transacting any public business; OR

- A public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to discuss or transact public business.

OTHER FOIA PROVISIONS

- **MINUTES: ARE REQUIRED** for any meeting of the board or council.
- Minutes are also required for any subcommittee thereof **ONLY** if a majority of the board/council members are on the subcommittee.
- **VOTING: NO secret or written ballots are ever allowed.**
- **POLLING:** You **MAY** contact individual members **separately** to ascertain their positions by phone, letter or email. **REMEMBER:** This exemption **CANNOT** be used in lieu of a meeting.
- **CLOSED MEETINGS:** Allowed **ONLY** as specifically authorized by FOIA and require motion stating purpose, Code citation *and* subject. [See § 2.2-3711 of FOIA]