

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
September 11, 2007**

A regular session of the Winchester Common Council was held on Tuesday, September 11, 2007 in the Council Chambers, Rouss City Hall. President Charles T. Gaynor called the meeting to order at 7:30 p.m.

PRESENT: President Gaynor, Vice-President Griffin, Mayor Minor, and Vice Mayor Buettner. Councilors Butler, Clark, Coyne, Helm, Major, Masters, and Nelson (11)

ABSENT: (0)

INVOCATION – Reverend James Utt gave the invocation with a special remembrance for the victims and families of September 11, 2001.

PLEDGE OF ALLEGIANCE – Mayor Minor led councilors and citizens in the Pledge of Allegiance.

APPROVAL OF MINUTES –Mayor Minor moved that the minutes of the August 14, 2007 Regular Meeting, and the August 23, 2007 Special Meeting be approved as presented. *The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.*

REPORT OF PRESIDENT

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-19 OF THE WINCHESTER CITY CODE TO PROVIDE ADDITIONAL TAX CREDITS FOR THE DISABLED.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:35 p.m.

- Public Hearing: AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY OWNED BY HABITAT FOR HUMANITY WINCHESTER-FREDERICK COUNTY, INCORPORATED, EXEMPT FROM CITY TAXATION PURSUANT TO SECTION 58.1-3651 OF THE CODE OF VIRGINIA.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:35 p.m.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 21-1, 21-25, 21-30, 21-31, 21-33, 21-41, 21-46 AND 21-47 OF THE WINCHESTER CITY CODE PERTAINING TO PURCHASING AND PROCUREMENT.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:36 p.m.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 6-132 OF THE WINCHESTER CITY CODE PERTAINING TO SPOT BLIGHT ABATEMENT IN ORDER TO COMPLY WITH THE REQUIREMENTS OF CODE OF VIRGINIA §36-49.1:1 AS AMENDED.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:37 p.m.

- Public Hearing: AN ORDINANCE TO REZONE APPROXIMATELY 39 ACRES CONTAINING APPROXIMATELY 47 PARCELS OF LAND, EITHER IN FULL, OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT, CE DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 300 FEET OF, THE VALLEY AVENUE RIGHT OF WAY. RZ-06-02

Tommy Kremer of 705 Mahone Drive addressed the Council with questions regarding what the CE district will mean to current property owners. President Gaynor stated that instead of the ordinance stating new developments shall do certain items; it has been changed to say new developments should do the items. He stated that Mr. Kremer's concerns were heard and this addresses the concerns that he had. Mr. Kremer also asked what does "site features" encompass in the ordinance. Planning Director Tim Youmans stated he understands that Mr. Kremer is concerned about driveway spacing standards that are not included in the CE District overlay.

President Gaynor declared the public hearing closed at 7:47 p.m.

- Public Hearing: To receive nominations and citizen input on the appointment of one At-large representative to the Winchester School Board to fill one vacant term. The term will expire June 30, 2008. (REQUIRES NAMES OF ALL INDIVIDUALS WHO YOU WISH TO NOMINATE FOR APPOINTMENT OR RE-APPOINTMENT).

Councilor Coyne stated he is pleased to announce four names for the School Board nomination. The names are James Bryant II, James Kerns, Ronald Mislowsky, and John Bishop.

President Gaynor declared the public hearing closed at 7:49 p.m.

- Public Hearing: To receive citizen input on the 2006 Consolidated Annual Performance Evaluation Report.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:49 p.m.

- President Gaynor asked Tracy Marlatt if she would like to address Council at this time.

Tracy Marlatt of 1447 Greystone Terrace stated at the Planning Commission meeting, 10 neighbors spoke and left defeated so she was at the meeting tonight to speak for

the neighborhood. At every meeting, Mr. Youmans has stated that a case is aligned with the Comprehensive Plan but he has never stated that with their case. B-1 is the most intensive district. Ms. Marlatt added that one councilman stated Millwood is a line of businesses. However, it is lined with brick homes. Her husband works at Shenandoah University and walks to work. He takes his life in his own hands doing so. She stated that we keep bringing up the traffic concerns but the topic gets diverted. At one meeting, they were told that the commission only looks at the case in front of them. She stated the neighbors are fighting for the integrity of their neighborhood. She and her husband chose to live in Winchester. If this is the message being sent to the neighborhoods, they will take their tax dollars elsewhere. Ms. Marlatt encouraged the Council to read the letters that were sent to the Planning Commission. She stated the traffic is a concern because it is one street. The development impacts the neighborhood and the property values. She added that 32 people signed the petition against the rezoning.

President Gaynor stated that Ms. Marlatt mentioned that Chuck Phares wants B-1 zoning but failed to mention all of the proffers the Phares made. That changes the complexion of the B-1 zoning. President Gaynor then offered a chance to speak to Chuck Phares. Mr. Phares stated that he was not prepared to make a statement tonight.

- Reading of a resolution expressing Council's sorrow at the death of former Frederick County Board of Supervisors' member Robert M. Sager.

Mayor Minor read the Resolution of sorrow for Robert M. Sager and stated he will be greatly missed. The Mayor then directed the Clerk of Council to forward a copy of the Resolution to Mr. Sager's family.

- President Gaynor motioned to amend the agenda to add a motion to adopt a Resolution outlining the concerns and policy statement, and recommendation of the City of Winchester concerning the problems caused by illegal immigration. He also added that if approved, it be forwarded to the elected State and Federal Representatives. *The motion was seconded by Councilor Griffin and unanimously approved.*

Councilor Helm motioned to strike the word "Hispanic" from paragraphs on page 1 and page 5. *The motion was seconded by Councilor Nelson and unanimously approved.*

Councilor Coyne motioned to amend the resolution by eliminating the last "where as" in the language and substitute it with a resolve that states actions to be followed. *The motion was seconded by Councilor Clark and unanimously approved.*

Councilor Helm moved to incorporate the balance of the language of the present document to be attached to the resolution in the form of a policy position statement endorsed by Council. *The motion was seconded by Mayor Minor. The motion was passed 7-4-0 with Councilors Coyne, Masters, Clark and Major voting against it.*

Councilor Coyne moved to table the motion before Council. President Gaynor stated the motion has been approved. Councilor Coyne stated only the amendment was approved and Council still needed to vote on the main motion. President Gaynor and Vice-President Griffin both stated we already did. Councilor Coyne stated that we voted on the attachments to the motion. President Gaynor stated we voted and approved Councilor Coyne’s resolution and then voted on Councilor Helm’s motion to attach language to the resolution. *Councilor Coyne withdrew the motion.*

FINANCE AND ADMINISTRATION

Chairman Buettner presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-19 OF THE WINCHESTER CITY CODE TO PROVIDE ADDITIONAL TAX CREDITS FOR THE DISABLED.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY OWNED BY HABITAT FOR HUMANITY WINCHESTER-FREDERICK COUNTY, INCORPORATED, EXEMPT FROM CITY TAXATION PURSUANT TO SECTION 58.1-3651 OF THE CODE OF VIRGINIA.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye

Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 21-1, 21-25, 21-30, 21-31, 21-33, 21-41, 21-46 AND 21-47 OF THE WINCHESTER CITY CODE PERTAINING TO PURCHASING AND PROCUREMENT.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- First Reading: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 14.01 OF THE CHARTER OF THE CITY OF WINCHESTER TO ALLOW RE-APPOINTMENT OF SCHOOL BOARD MEMBERS IN OFFICE AS OF JULY 1, 2007.
- Motion to approve the 2006 Consolidated Annual Performance Evaluation Report.

The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

- Motion to approve changes to the Comprehensive Employee Management System.

The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

- Motion to appoint _____ as an At-Large member of the Winchester School Board for an unexpired term ending June 30, 2008.

Vice-Mayor Buettner motioned to table the item until the next scheduled meeting. The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

- Motion to designate _____ as voting delegate and _____ as an alternate for the Virginia Municipal League Annual Conference held in October.

Vice- Mayor Buettner motioned to designate Mayor Minor as the voting delegate and Assistant City Managers Craig Smith and Anne Lewis as the alternates. The motion was seconded by Councilor Major then unanimously approved by voice-vote.

- Announce the term expiration of Jimmy Kilbourne as a member of the Winchester Regional Airport Authority expiring June 30, 2007.
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Jimmy Kilbourne as a member of the Winchester Regional Airport Authority.

The motion was seconded by Mayor Minor then unanimously approve by voice-vote.

- Motion to appoint Larry T. Omgs as a member of the Winchester Regional Airport Authority for a four year term expiring June 30, 2011.

The motion was seconded by Councilor Butler then unanimously approved by voice-vote.

- Announce the term expiration of Michael Burton as a member of the Shenandoah Area Agency on Aging Board of Directors expiring November 30, 2007 and direct the Clerk of Council to advertise the vacancy.
- Announce the resignation of John B. Schroth as a member of the Community Development Committee effective June 22, 2007 and direct the Clerk of Council to advertise the vacancy.
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for John B. Schroth as a member of the Community Development Committee.

The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

PLANNING AND DEVELOPMENT

Chairman Griffin presented the following:

- Viewers Report for: AN ORDINANCE TO VACATE A 600 SQUARE FOOT PORTION OF WOOLEN MILL LANE PUBLIC ALLEY RIGHT OF WAY AND ASSEMBLE IT IN WITH THE ADJACENT TIMBROOK PARK PROPERTY AT 305 E PICCADILLY ST AND 314 WOODSTOCK LANE **SV-07-04**.

The Viewers Report noted there would be no inconvenience.

- Second Reading, by title, for adoption: AN ORDINANCE TO VACATE A 600 SQUARE FOOT PORTION OF WOOLEN MILL LANE PUBLIC ALLEY RIGHT OF WAY AND ASSEMBLE IT IN WITH THE ADJACENT TIMBROOK PARK PROPERTY AT 305 E PICCADILLY ST AND 314 WOODSTOCK LANE **SV-07-04**.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 6-132 OF THE WINCHESTER CITY CODE PERTAINING TO SPOT BLIGHT ABATEMENT IN ORDER TO COMPLY WITH THE REQUIREMENTS OF CODE OF VIRGINIA §36-49.1:1 AS AMENDED.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO REZONE APPROXIMATELY 39 ACRES CONTAINING APPROXIMATELY 47 PARCELS OF LAND, EITHER IN FULL, OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT, CE DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 300 FEET OF, THE VALLEY AVENUE RIGHT OF WAY. The Comprehensive Plan calls for urban design guidelines for private

development along corridors leading into the City and within the City center. The proposed CE District does not affect the land use of a property. Instead, the district regulates building aesthetics and site features for major tourist access routes leading to the City’s Historic District. **RZ-06-02**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO APPROVE A SPOT BLIGHT ABATEMENT PLAN FOR THE ACQUISITION, DEMOLITION AND RESALE OF 222 S. KENT STREET PER VIRGINIA CODE SECTION 36-49.1:1. **SBA-06-05 (Public Hearing was held December 12, 2006. Previously tabled on December 12, 2006 and March 13, 2007.)**

Martha Shickle stated there are some maintenance issues that exist on the property but the blight has been cured. Staff recommends the ordinance be denied and will continue to watch the maintenance issues.

The motion was denied by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Nay
Councilor Butler	Nay
Councilor Clark	Nay
Councilor Coyne	Nay
Vice-President Griffin	Nay
Councilor Helm	Nay
Councilor Major	Nay
Councilor Masters	Nay
Mayor Minor	Nay
Councilor Nelson	Nay
President Gaynor	Nay

- First Reading: AN ORDINANCE TO CONVENTIONALLY REZONE AN APPROXIMATELY 0.70 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AND AN APPROXIMATELY 0.50 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO COMMERCIAL INDUSTRIAL, CM-1 DISTRICT AT 1930 SOUTH LOUDOUN STREET AND TO CONVENTIONALLY REZONE AN APPROXIMATELY 0.18 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AND AN APPROXIMATELY 0.14 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO COMMERCIAL INDUSTRIAL, CM-1 DISTRICT AT 1936 SOUTH LOUDOUN STREET. **RZ-07-08**
- First Reading: AN ORDINANCE TO CONVENTIONALLY REZONE A 0.103 ACRE PORTION OF LAND FROM MEDIUM DENSITY RESIDENTIAL, MR DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 389 MILLWOOD AVENUE AND TO CONDITIONALLY REZONE A 0.397 ACRE PARCEL FROM MEDIUM DENSITY RESIDENTIAL, MR DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 393 MILLWOOD AVENUE. **RZ-07-07**
- First Reading: AN ORDINANCE AMENDING ARTICLES 1-2, 3-1, 4-1, 5-1, 5.1-1, 6-1, 7-1, 8-2, 9-1, 13-1, 15-1, 15.1-1, 16.1-2, 18-4, 21-2, and 21-3 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITIONS OF ADULT CARE RESIDENCE, ALCOHOL TREATMENT CENTERS, DRUG TREATMENT CENTERS, FAMILY, FAMILY CARE HOME, GROUP HOME, PROTECTED POPULATION RESIDENCE, AND SINGLE HOUSEKEEPING UNIT; AND, PERTAINING TO USE AND OCCUPANCY OF DWELLING UNITS; AND, PERTAINING TO VIOLATIONS AND PENALTIES. **TA-07-02**
- Motion to appoint _____ as a member of the Industrial Development Authority for a four year term expiring August 31, 2011.

Vice President Griffin stated a name will be filled in next month.

- Announce the resignation of John B. Schroth as a member of the Winchester Parking Authority effective June 22, 2007 and direct the Clerk of Council to advertise the vacancy.
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for John B. Schroth as a member of the Winchester Parking Authority.

The motion was seconded by Councilor Major then unanimously approved by voice-vote.

- Motion to appoint Dr. Marilyn E. Finnemore as a member of the Old Town Development Board for a three year unexpired term ending October 31, 2009.

The motion was seconded by Mayor Minor then unanimously approved by voice-vote.

COMMUNITY SERVICES

Chairman Butler presented the following:

- Motion to re-appoint James R. Wilkins, III to the Frederick-Winchester Service Authority for a three year term expiring August 31, 2010.

The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

NEW BUSINESS

Mayor Minor thanked Martha Shickle for the wonderful report at the North End Community meeting. The citizens had a lot of questions that Martha handled beautifully.

Mayor Minor thanked the Fire and Rescue Department for the Muscular Dystrophy drive during the Labor Day Weekend that rose over \$18,000.00. She also stated the South End Fire Company dedicated a new ambulance this past weekend.

President Gaynor stated he failed to mention that he would like a thank you put into Congressman Frank Wolf's copy of the immigration letter for his help with gang activity.

President Gaynor presented the new committee assignments for the councilors. He stated that all council members present at a meeting will have a vote on that committee. These changes are effectively immediately. President Gaynor asked the meeting chairs to make appropriate meeting times for the demands on Council and the public. He also asked that the meetings be held regularly.

Vice-President Griffin stated the Annual Kick Ball Tournament was a success and rose over \$1000.00. Mayor Minor presented the trophy to President Gaynor.

ADJOURNMENT –With no further business, President Gaynor moved to adjourn the meeting at 9:12 p.m. *The motion was seconded and unanimously approved by voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council