

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
June 11, 2013**

A regular session of the Winchester Common Council was held on Tuesday, June 11, 2013 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 7:01 p.m.

PRESENT: Councilor Jeff Buettner, Evan Clark, John Hill, John Tagnesi and Ben Weber; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach; President John Willingham (9)

ABSENT: None (0)

INVOCATION – President Willingham led the citizens and councilors in a Moment of Silence.

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

APPROVAL OF MINUTES – May 14, 2013 Regular Meeting, May 21, 2013 Work Session, May 28, 2013 Work Session, and May 28, 2013 Emergency Special Meeting

Vice-Mayor Veach moved to approve the minutes as presented. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

REPORT OF THE MAYOR

R-2013-28: Resolution – Recognizing the brave, calm manner of 14 year old Savannah Payne during a medical emergency

Mayor Minor presented the resolution to Savannah Payne for her actions during the medical emergency.

Vice-President McInturff moved to approve R-2013-28. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

REPORT OF THE CITY MANAGER

City Manager Dale Iman announced a revision to item 3.2 with a slight change to the Certified Local Government (CLG) grant application. He stated the amount for the application has increased from \$13,000 to \$15,000 with a local share increase from \$3,000 to \$3,500. The purpose for the change is the application had to be split in half to separate the expansion of the district from the period of significance in order to get both done in a timely fashion and be more beneficial to the City. Mr. Iman also announced the first of the Friday Night Live series will be held this week. He stated there will be

entertainment along the walking mall with two stages set up at Cork Street and the Hable lot for concerts. The events will be held the second Friday of each month of the summer.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated he did not have a report to present.

1.0 PUBLIC HEARINGS

1.1 O-2013-10: Second Reading – AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2013

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:08 p.m.

Vice-President McInturff moved to adopt O-2013-10. The motion was seconded by Vice-Mayor Veach then 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

1.2 O-2013-12: Second Reading – AN ORDINANCE TO REZONE 0.45 ACRES OF LAND AT 2307 STONERIDGE ROAD (Map Number 269-05-A-1) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO LOW DENSITY RESIDENTIAL (LR) DISTRICT WITH CE DISTRICT OVERLAY RZ-13-98

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:09 p.m.

Vice-Mayor Veach moved to adopt O-2013-12. The motion was seconded by Mayor Minor then 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

1.3 O-2013-13: Second Reading – AN ORDINANCE TO REZONE A 0.75 ACRE PORTION OF LAND AT 441 LINDEN DRIVE (Map Number 130-01- -1) FROM LOW DENSITY RESIDENTIAL (LR) DISTRICT TO MEDICAL CENTER (MC) DISTRICT RZ-13-134

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:09 p.m.

Mayor Minor moved to adopt O-2013-13. *The motion was seconded by Vice-President McInturff then 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Abstain

Before voting Councilor Tagnesi stated he is required to reveal that his wife is retired from the hospital with a pension. They have no personal interest in this particular item so he is able to participate in this transaction fairly, objectively, and in the public interest.

President Willingham abstained as he is a member of the Winchester Medical Center Board of Trustees.

1.4 O-2013-14: Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT TA-13-138

Kathleen Erickson-Nord, the owner of Above and Beyond Holistic Services at 9 West Jubal Early Drive, stated signs are very important to businesses. Some businesses don't need much signage like a law office or a franchise that has restrictions for their logo. Small businesses need more signs especially specialty businesses like hers. Signs are not meant to be art exhibits. They draw in customers and are a method of shopping. A busy looking retail area will get more customers and shoppers with signs associated with good products and services. She stated signs bring in income. She has signs in front of her place that serve her 35 – 40% of her income every month. Before that, she was not earning anything and just breaking even. These signs bring in the local business not the out of state business she gets from the internet. All the regulations on signs will make the business community suffer. She stated signage should be discussed with the business owners to see what their needs are and not dictated by another Councilor or a group of people not remotely related to the business. Every business has different needs so it should be discussed with the business owners to see what those needs might be. She stated having a beautiful town and a highly functioning commerce in a town can be achieved for everybody but we need to work together to discuss what constitutes a good looking town and viable business methods. Don't overburden the retail and services businesses. The owners already have enough on their plates and should be worrying about their customers and services not permits, the size of signs, locations of signs, and the times they go up or down. She stated she does not want to pitch neighboring businesses against each other by wondering who can advertise and who can't in the same block. Right now, that actually exists. Everyone deserves an equal chance if they so chose to advertise on the same block. People shop differently than they did 10 – 20 years ago. They look at signs to see if they are interested in coming in or driving on by. If they can't read the signs, they are not going to stop to come in. The business community needs to come first in this town and not the trees. Although she loves trees, she does not want to sacrifice her income because of the trees in front of her building.

Dennis Nord of 9 West Jubal Early stated he also represented Above and Beyond Holistic Services. He asked if Council has really thought this amendment through thoroughly. He stated Council should table this amendment permanently or at least until all the problems are ironed out. He has only considered the sections that affect the commercial/industrial areas. He is sure there are problems in other areas of the ordinance but he is only concerned with what affects them. He stated on the first page in the second "whereas", it mentions signs will be appropriate but not excessive for their intended purpose and asked who is to decide that? Does the Planning Commission ever consult with the business to determine their needs to work out a compromise or strike a balance? He stated the fourth "whereas" mentions flexible opportunities for businesses and other entities to communicate with the community. This resolution restricts the possibilities even tighter not more flexible so it contradicts itself. He stated he found a paragraph numbering error concerning temporary signs in 18-8-12.1 and 18-8-12.2 that cover the same topic and should probably be in the same paragraph. Under the temporary signs, it lists

that three temporary signs will be allowed per year per property. His particular building has 5 tenants and he asked how they are supposed to work that out. The amendment does not clearly distinguish between advertising signs, price signs, sales signs, and promotional signs. Each of these labels is treated differently. Some are allowed for 10 days a month, some for 30 days and some for 45 days. To a merchant, these are all advertising signs so this needs clarification. He stated the definitions of portable price and advertising signs includes portable flag signs and similar but elsewhere in the resolution those are prohibited. That needs to be clarified and cleaned up. He stated the restriction of 4 foot high is not effective. That is the size of a small child and can't be easily seen from a moving vehicle. A parked car can easily block that size. He asked why a window sign must be posted on the inside of the glass but it is allowed to paint a sign on the outside of the glass. He stated many buildings like theirs has deeply tinted glass making window signs invisible from the street. That needs to be resolved and he recommended some type of window sign be allowed on the outside of the glass.

Julie Arnold from the Museum of the Shenandoah Valley located at 901 Amherst Street stated as evidence by the museum's partnership with the City of Winchester on the recent Amherst Street/Green Circle project, the museum is committed to creating a more livable city as well as beautifying the Amherst Street corridor. To that extent, in 2007, the museum applied for and was granted a Certificate of Appropriateness from the Board of Architectural Review to elevate the museum's signs and to construct two banner holders to display temporary banners announcing exhibitions and events. After receiving this approval, the museum invested in the construction of these custom made rod-iron banner holders and have been displaying banners in these holders since 2007. They have been purchasing the banners that are made in Winchester at about 30-40 a year and thousands of dollars of community investment. These banners have provided an invaluable resource for the Museum of the Shenandoah Valley in marketing themselves to residents as well as tourists. As they studied the proposed legislation and spoken with the City's Director of Zoning and Inspections, our understanding is the proposed ordinance would allow the museum to only display one banner at a time. They would be required to leave one of the banner holders empty at all times. Not only would this detract from the appearance of the entrance but also have a negative impact on the Amherst Street corridor overall. It would also have a negative impact on their marketing efforts as only half the traffic on Amherst Street would be able to see the banners at any one time. Her request to Council is to ask that the ordinance be amended so it honors any variances or Certificates of Appropriateness relative to signage that the city has previously awarded to the museum or any other businesses or organizations.

Donnie Unger of 661 and 663 North Loudoun Street stated Winchester is a small community. He and his wife grew up here and wanted to open their Ducati business here. Eighty-five percent of their customers come from out of town. If you look at the front of their building, you cannot see their frontage signs because of the trees they are mandated to maintain so they put up two

vertical signs by each of their addresses. He stated that is the only way to identify their business coming north or south on Loudoun Street. He asked that Council look at it and allow him a variance along with the other businesses as he sees representatives from the car lots at the meeting as well. The proposed change to the amendment would allow his business to continue to operate. His is a very unique business that brings in people from all over the eastern seaboard. They do not live in Winchester but they spend a lot of money in Winchester. They come here to stay, eat, gas, and everything else. They are no burden to the City other than revenue.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:21 p.m.

Vice-President McInturff moved to table O-2013-14. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

1.5 O-2013-11: Second Reading – AN ORDINANCE TO AUTHORIZE THE APPROPRIATION OF FUND FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2014

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:24 p.m.

Vice-Mayor Veach moved to adopt O-2013-11 with the condition that disbursement of funds for the Discovery Museum be contingent on the execution of a Memorandum of Understanding that Council talked about previously defining the proper and intended use of funds after it has been reviewed and approved by Council and the City Attorney. *The motion was seconded by Mayor Minor then 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

1.6 O-2013-15: Second Reading – AN ORDINANCE TO IMPLEMENT THE PROVISIONS OF THE BOARDS AND COMMISSIONS MEMORANDUM ADOPTED BY COMMON COUNCIL ON FEBRUARY 12, 2013 PERTAINING TO THE FUNCTIONING AND PROCESSES ASSOCIATED

WITH THE APPOINTMENT AND OPERATIONS OF THE COUNCIL-
APPOINTED BOARDS AND COMMISSIONS

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:26 p.m.

Councilor Buettner moved to adopt O-2013-15. *The motion was seconded by Vice-Mayor Veach then 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

- 1.7 CU-13-211:** Conditional Use Permit – Request of KKE Properties LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 24 Wolfe Street, Unit 6 and 26 Wolfe Street, Unit A (*Map Number 193-01-C-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

Lori Ross of 112 Wolfe Street stated she and her husband own the houses right behind KKE Properties on Braddock Street and take a personal interest in that becoming a non-resident property. One of the reasons is the limited parking for the tenants at her property. Currently, they are not allowed to use the parking lot for KKE Properties but she believes their tenants will be allowed to park on Wolfe Street out of convenience. She stated the second issue she has is the walkway from their back door runs through the backyard of her property. She is concerned with residents living there that there will be people coming and going at all hours of the night through her backyard.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:28 p.m.

Councilor Tagnesi moved to table CU-13-211. *The motion was seconded by Councilor Weber then approved 8/1 with Vice-President McInturff voting in the negative.*

- 1.8 CU-13-176:** Conditional Use Permit – Request of Charles Salamone on behalf of AT&T Mobility for a conditional use permit to upgrade existing

telecommunications facilities with additional antennas and equipment at 103 East Piccadilly Street (*Map Number 173-01-P-6*) zoned Central Business (B-1)

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:30 p.m.

Councilor Buettner moved to adopt CU-13-176. *The motion was seconded by Vice-Mayor Veach then 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

2.0 PUBLIC COMMENTS

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:30 p.m.

3.0 CONSENT AGENDA

- 3.1 O-2013-17:** First Reading: AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF PROPERTIES NECESSARY FOR THE REALIGNMENT OF NATIONAL AVENUE – PICCADILLY STREET – EAST LANE
- 3.2 O-2013-18:** First Reading: AN ORDINANCE TO DECLARE THE PROPERTY AT 414 S. BRADDOCK STREET TO BE A NUISANCE; AND APPROPRIATE FUNDS AND AUTHORIZE THE CITY TO ABATE THE NUISANCE AND MAKE EMERGENCY REPAIRS TO THE UNSAFE STRUCTURE)
- 3.2 R-2013-29:** Resolution – Approval to apply for CLG grant funding through the Virginia Department of Historic Resources for the purposes of amending and expanding the Nationally-Designated Winchester Historic District and amending the period of significance
- 3.3 Motion** to re-appoint Melvin Thomas as a “Ward 4” member of the Winchester School Board to a four year term expiring June 30, 2017

3.4 Motion to re-appoint Mary Margaret Wise as a “Ward 1” member of the Winchester School Board to a four year term expiring June 30, 2017

Vice-Mayor Veach moved to approve the Consent Agenda as amended with the revised item 3.2. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

4.0 AGENDA

4.1 O-2013-16: First Reading: AN ORDINANCE TO CREATE CITY CODE SECTION 14-15 – PHOTO MONITORING SYSTEMS TO ENFORCE TRAFFIC LIGHT SIGNALS

4.2 Motion for the Nomination of _____ for appointment to the School Board and direct the Clerk of Council to issue a Notice of a Public Hearing for citizen comment on same in accordance with §22.1-29.1 of the Code of Virginia.

Councilor Buettner moved to nominate Minh Le for appointment to the School Board. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

4.3 Motion to appoint _____ as a member of the Winchester Regional Airport Authority to a four year term expiring June 30, 2017

Councilor Buettner moved to appoint Gerald “J.J.” Smith to the Winchester Regional Airport Authority. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

4.4 Motion to appoint _____ as a member of the Northwestern Community Services Board to a three year term expiring December 31, 2016

Vice-President McInturff moved to appoint Patrick Atkins to the Northwestern Community Services Board. *The motion was seconded by Vice-Mayor Veach then unanimously approved by voice-vote.*

4.5 Motion to appoint _____ as a member to the Board of Zoning Appeals to an unexpired term ending July 31, 2014

Vice-President McInturff moved to appoint Robbie Marchant to the Board of Zoning Appeals. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

4.6 Motion to appoint _____ as a member of the Social Services Advisory Board to a four year term expiring March 31, 2017

Vice-Mayor Veach moved to appoint Les Taylor to the Social Services Advisory Board. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

- 4.7** Motion to appoint Sharon Farinholt as a private sector member and re-appoint Rebecca Ebert as a non-profit sector member and Bill Hottel as a private-sector member of the Winchester-Frederick County Tourism Board each to a three year term expiring on June 30, 2016

Vice-Mayor Veach moved to appoint Sharon Farinholt and re-appoint Rebecca Ebert and Bill Hottel to the Winchester-Frederick County Tourism Board. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

- 4.8** Announce the term expiration of William Buettin as a member of the Economic Development Authority effective August 31, 2013 and direct the Clerk of Council to advertise the vacancy. Mr. Buettin is eligible for re-appointment.

5.0 EXECUTIVE SESSION

President Willingham stated he would entertain a motion to add the discussion of the subject of Employment Matters to the Closed Session Motion for this evening pursuant to 2.2-3711(A)(1) of the Code of Virginia. *The motion was made by Vice-President McInturff, seconded by Vice-Mayor Veach, and then approved unanimously.*

- 5.1** MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND FOR RECEIVING LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION AND PURSUANT TO 2.2-3711(A)(28) FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF THE SUBJECT MATTER OF RECORDS EXCLUDED FROM OPEN MEETING REQUIREMENTS PURSUANT TO SUBDIVISION 11 OF §2.2-3705.6 OF THE CODE OF VIRGINIA AND ISSUED IN ACCORDANCE WITH §56-575.6 OF THE CODE OF VIRGINIA TO THE CITY OF WINCHESTER AS AN AFFECTED LOCAL JURISDICTION AS THOSE TERMS ARE DEFINED IN §56-575.1 OF THE CODE OF VIRGINIA, AND PURSUANT TO §2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS, APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER.

Vice-President McInturff moved to convene into executive session at 7:35 p.m. *The motion was seconded by Councilor Buettner then unanimously approved by voice-vote.*

Vice-Mayor Veach moved to reconvene in open session at 8:12 p.m. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

6.0 ADJOURNMENT

On a motion made by Councilor Weber, the meeting adjourned at 8:12 p.m.

Kari J. Van Diest, CMC
Deputy Clerk of the Common Council