

**WINCHESTER COMMON COUNCIL
OCTOBER 8, 2013**

DRAFT

A regular session of the Winchester Common Council was held on Tuesday, October 8, 2013 in the Council Chambers, Rouss City Hall. President Willingham called the meeting to order at 7:01 p.m.

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

ABSENT: None (0)

President Willingham entertained a motion to add an executive session to the agenda for the purposes of consultation with legal counsel at the end of the meeting. *The motion was made by Councilor Weber, seconded by Councilor Hill, and then unanimously approved by voice-vote.*

MOMENT OF SILENCE – 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 – September 10, 2013 Regular Meeting, September 17, 2013 Special Meeting, and October 1, 2013 Special Meeting

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

REPORT OF THE MAYOR

Mayor Minor stated she would like to recognize the Sheriff's Department for coming in third place in the division for outstanding efforts to help eliminate auto theft in the Commonwealth of Virginia. They also came in first place in the Commonwealth for having the largest V.I.N., Vehicle Identification Number, etching event in the state. She offered congratulations to the Sheriff Department and also to Sheriff Lenny Millholland who mentored 27 first term sheriffs during training in Aurora, Colorado. She stated that was quite an honor for Lenny and the City appreciated him for doing that and for making the City look good.

R-2013-44: Resolution – Recognition of Nashawn Cook for the brave, calm and caring manner displayed while getting medical assistance for another

In Nashawn Cook's absence, Council took no action on this item.

R-2013-55: Resolution – Honoring the retirement of Battalion Chief H. Donald Whitacre

Mayor Minor presented the resolution to Battalion Chief Donald Whitacre and thanked him for his service to the City of Winchester.

Vice-President McInturff moved to approve R-2013-55. *The motion was seconded by Vice-Mayor Veach then unanimously approved by voice-vote.*

Proclamation: Fire Prevention Week

Mayor Minor read the proclamation designating the week of October 6-13, 2013 as Fire Prevention Week.

REPORT OF THE CITY MANAGER

City Manager Dale Iman stated as this is a very busy time for City Council and he just wanted to review some of the meetings coming up in the month of October other than the normal work sessions and this regular meeting for the public to be aware of these meetings as well. October 14th, next Monday at the Daniel Morgan Auditorium there will be a second presentation by both of the proposers for the new John Kerr Elementary School. This presentation will be based on the designs that they are proposing and how they relate to teaching and learning in the 21st century classroom. Next Tuesday, October 15th at 6 p.m. in Council Chambers, we will have our regular scheduled work session. The following Thursday, October 17th at 6:30 p.m., is the Valor Awards and many of our first responders, including some of our firefighters and paramedics, will be honored for their work and many councilors are going to attend that. On October 22nd at 6 p.m., there is a special meeting in the City Council Chambers and that will be followed by a work session. On October 29th, which is the fifth Tuesday of this month, we have another meeting scheduled at 6:30 p.m.; it is a joint meeting with the Winchester Public School Board at Quarles Elementary School to discuss the tentative decision on the John Kerr Elementary School location. He said an email will be sent out as a reminder. This is also available for the public on the City's webpage.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated he wanted to take the opportunity to introduce the new Assistant City Attorney Kathryn Herrmann. Today is her second day of work. He is looking forward to her helping with the work the City Attorney's office currently has.

1.0 PUBLIC COMMENTS

1.1 Motion to remove from the table CU-13-372 regarding a telecommunications tower at 700 Jefferson Street (tabled at September 10, 2013 Council Meeting)

Paul Lewis of 633 Tennyson Avenue stated time is of the essence. There have been people that have recently said if you don't believe in where this tower is going to go as it stands right now, you're against first responders or you're against Fire and Rescue having the technology. He stated he is not happy that it's taken this long over the course of several City Managers and previous councils to get it to this point. The issue about this is that it's never been about the technology need, it is there and frankly the sooner that they can have the tools they need to respond, the

better. The issue here is how the process has gone about and the city finally deciding that they didn't do a good enough job notifying the public. Today, a full blown presentation of all the benefits was in the paper which he thinks many of the citizens know what the benefits are. He stated the City painted itself in a box. They initially had a budget that would have had a multiple site approach or different locations and then shrunk the budget down to where it was only left with one option. Many of those on Council are successful in business or have worked successfully in nonprofits and he doesn't feel that any of them would make a decision for their businesses or even for their families that left them with one opportunity. He stated with many things the City has done, the budget has not come first. Nobody wants their taxes to go up and everybody is concerned with the current economic climate that we all find ourselves in but he fears if the City proceeds in this manner, the next time it goes to the public for support on something it needs, it will be more difficult because of how this has gone. He stated the technology needs to be there. These men and woman often have a thankless job but he is thankful that they are there and certainly hopes they have the opportunity and do get the type of technology that they need. However, there is a better way in all of us working together to seek a more common ground on this. He knows time is of the essence and we're out of time, but that could have been said back in 2008, 2009, 2010, 2011, and 2012 as well. He urged Council to reconsider and look for other alternatives. He stated all of the citizens certainly appreciate and respect these fine men and woman who serve us every day.

Patsy Gochenour, a lifelong resident of Winchester and Frederick County, stated that since Mayor Minor was a guest last Saturday at the celebration of the 60th Handley High School Class of 1953 Reunion, she would appreciate it that she may be her guest tonight to speak before City Council regarding the conditional use permit which will allow the construction of the public safety communication tower. It is her understanding that the City Council may possibly vote tonight on an issue of a conditional use permit to allow the construction of a public safety system tower on the City land at 700 Jefferson Street. Her few remarks regarding this issue are based on a quote which caught her eye in today's article in the Winchester Star, "The City's latest controversy should be decided legislatively at least, tonight." Being a lifelong active and involved resident of Winchester and Frederick County, she has a perspective of the community that very few residents have. She began her public involvement in 1957 when she started teaching second grade at Virginia Avenue Elementary School. Ms. Charlotte DeHart, a master teacher, was her first supervising principal. She taught in a self-contained classroom, which in order to accomplish educationally all that was expected for her to teach and her students to learn, it became necessary to correlate all subject matter. Therefore for the past fifty years, she has been keeping her plan book and she still correlates her daily, weekly and monthly activities. Now to bring it to the topic of discussion, the City's latest controversy that could be decided tonight. She asked why Council would want to consider at this time a \$3.5 million dollar upgrade to the current communications system tower when it's her understanding that City Council is not communicating with its residents in regard to this important matter and other past issues. She stated when you try to communicate with someone; it is not only talking but listening and interacting in order to achieve a win-win situation for all who are involved in the conversation. She believes there is always a positive

solution to any problem or challenge an individual or a community has to face and asked that Council start this evening to search for these positive answers. She stated each member of Council has to answer the important question of who controls their vote.

Scott Bridgeforth of 601 Jefferson Street stated he doesn't want to sound like a broken record but just to summarize what he has said at several of these meetings, he is going to reiterate some of the negative impacts this tower could possibly have. He has discussed the future land development in this area and the surrounding area, the creation of a fall zone/set back issue on his property, and just the overall aesthetics. He has also talked about the current resident's commitment to all the houses they built around there and what they are worth dilemma. He stated the irony to all this is in his opinion is that the City is the smallest land owner with the 1.5 acres in this area. It's dwarfed by the Museum of the Shenandoah Valley which has 200 plus acres, the Handley Trust which has about 20 acres, and he has, coming in third, about 13.5 acres. So it seems kind of ironic that the City is the minority of the land owners trying to override the majority here, which he wishes the City would listen to us. He asked whatever happened to the majority rules. At this juncture, he does not know where the exact location of the tower is proposed as it has been moved around numerous times. He stated he does not have any guarantees about his land and his future developments because he doesn't know about the setbacks, the fall zones and what have you. He did not have a true survey plat which would be nice to have if someone would contact us about that. But most importantly, right now, he hates to say this folks; he is out of time at least at this venue.

Laurie Bridgeforth of 601 Jefferson Street stated she is the City's neighbor. Her land abuts the property at 700 Jefferson Street where the City would like to build the proposed tower. Folks, please do not vote for this tower, please. You already have a precedent for a similar issue that you've acted on before now when you changed the route on the fire lane on the Loudoun Street Mall. She distributed for Council's use a City Council Action Item from Mr. Iman dated January 8, 2013. She stated Council voted to change the fire lane because they did not want to unfairly restrict the future use of adjacent properties. Council voted to change the fire lane because of the potential impact on future use and they didn't want to limit future opportunities for property on the Loudoun Street Mall. She stated this is the exact same issue. If Council votes for this tower at 700 Jefferson Street; they are unfairly restricting and limiting future opportunities for adjacent properties, meaning hers. All she asks is that Council please be consistent. Council has heard her speak before about Zoning Ordinance 18.2.1 and it reads in part "...any new tower is separated from property lines in a residential district by not less than the height of the tower..." The City simply does not have that kind of room on that piece of property. Council makes decisions every week based on ordinances already in place, 18.2.1 is simply one of them, please be consistent.

Dana Hand Evans, Director of the Museum of the Shenandoah Valley at 901 Amherst Street stated she was present on behalf of both of the Museum of the Shenandoah Valley and their supporting foundation, the Glass Glen Burnie Foundation, to again express their concerns about the proposed Jefferson Street

location for the public safety communications tower. Again, while the visual effects survey conducted for the proposed tower took into account current structures and entrances on the museum property, it did not take into account future growth on the site in particular the installation of community walking and biking trails on the museum property in close proximity to the proposed telecommunication tower site. She stated they would also like to express their concern about locating a 237 foot tower so close to an elementary school because it is their hope that the City will rebuild John Kerr Elementary School on the existing Jefferson site. She asked Council to reconsider the Jefferson Street location and examine other options that are available to the City that would provide emergency services personnel with an effective communication system.

Andrea Koenker of 500 Jefferson Street stated she is very familiar with some of the first responders. As a registered nurse, they bring patients to our critical care units frequently. As an ACLS instructor, she knows some of them are very concerned with about their welfare and would not want to see anything done to delay the tower. However, she feels that it is not the correct area for the tower. The tower shouldn't be in anybody's residential area. Several letters to the editor have expressed concern that people from Jefferson Street or Tennyson are perhaps biased. She stated they are biased because it's in their backyard. But she wouldn't put this any place in a residential area in this City. She thinks the intelligent thing is to put it in a commercial area and we do have some of those. She stated she just wanted to speak up and thanked Council for giving her a chance to speak her opinion, which she always enjoy doing.

President Willingham asked if anyone else would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 7:24 p.m.

Councilor Ben Weber moved to remove from the table CU-13-372. *The motion was seconded by Councilor John Hill then unanimously approved by voice-vote.*

1.2 CU-13-372: Conditional Use Permit – Request of Morris & Ritchie Associates on behalf of the City of Winchester for a conditional use permit to construct a telecommunications tower at 700 Jefferson Street (*Map Number 190-01-3*) zoned Education, Institution and Public Use (EIP) District. (Public Hearing closed at September 10, 2013 Council Meeting)

Councilor Buettner stated he would like to make a motion to direct the President of Council to engage the Winchester School Board in discussions of the possibility of a sub-lease of a portion of property owned by the Handley Board of Trustees adjacent to the proposed tower site.

Councilor Buettner moved to engage with the Winchester School Board to lease space on their current existing land near the tower site that is being proposed tonight. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

Councilor Buettner stated he personally would like to see what other options there are for this project as well as what those options would cost and would like to make

a motion to have the manager solicit an RFP in conjunction with the ongoing efforts on the construction of the radio tower at the Jefferson Street site and to explore alternative option sites and costs.

President Willingham stated he would be voting against this RFP because he feels the City has gone through the process and he has heard from a lot of folks. He doesn't know where he may or may not stand on this, but the City has gone through an RFP process and has had lots of people respond from outside of the Jefferson Street community who don't want to see their taxes raised or any other funds allocated. The City has a site selected potentially and have the funds committed to it. So for him personally when he asks the question to the consultant whether the City can have a site any differently, potentially, the answer was no, \$3.5 million dollars and 95/95. He is impressed with what Councilor Buettner is proposing but at least from what he is hearing from other folks, the City has other options and opportunities.

Vice-President McInturff stated that he would like to read part of the article from the Winchester Star from a lady in ward 4, "Our City Council's elected to represent all of our citizens, not just a few land owners. Council has given several options and decided to complete this mandated project on city land at the most economical terms for the taxpayers, any other locations would cost millions of dollars more, delayed project and subject to city outrageous fines. Our first responders deserve our support and not delays". He stated he would not support the motion.

Councilor Clark stated the one comment that struck him was in the discussions Council had thus far are with the expert at Motorola who told them that if the City goes to a two towers scenario that one of those towers would have to be at the Jefferson Street location. So even if the City did go for two towers, they would still have to have one at the exact the location being discussed or on that same ridge within a very short distance. He will not be supporting this motion.

Mayor Minor stated she would be supporting this because she thinks this is a very good motion Mr. Buettner, she wouldn't feel comfortable if the City had not explored every option available to us, so she will support it.

Councilor Buettner stated he certainly understands the perspective of those who don't feel that this is the prudent way to go. He understands the necessity of getting the first responders everything they need to do their job quickly. He doesn't personally feel like Council should be pushed into a corner making a 25 year decision based on one alternative. And while Council had consultants tell them a bunch of things throughout this process, until Council puts it out in an RFP and gets real tangible results back they will not know if that answer is right or wrong and to him Council hasn't asked that question yet. That is why he proposed this to explore what are the alternatives, if they even exist, they may not, but Council won't know because they haven't asked.

Councilor Buettner moved to have the manager solicit an RFP in conjunction with the ongoing efforts of the construction of the radio tower at the Jefferson Street site and to explore alternative option sites and costs. *The motion was seconded by Vice-*

Mayor Veach then approved 5/4 with Councilor Clark, Councilor Tagnesi, Councilor Weber, and President Willingham voting in the negative.

Councilor Buettner stated he would like to make a third motion to retable the conditional use permit discussion until such time as we have the results of the RFP and the discussion on the Jefferson Street site back.

Councilor Buettner moved to retable the conditional use permit for CU-13-372 until they have the results back on the RFP and the discussion on the Jefferson Street site. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

2.0 PUBLIC HEARINGS

- 2.1 R-2013-41:** Resolution – Providing for the issuance and sale of General Obligation Bonds, Series 2013, of the city of Winchester, Virginia, in an aggregate principal amount not to exceed \$27,000,000, heretofore authorized, and providing for the form, details and payment thereof (No public hearing required)

Vice Mayor Veach moved to approve R-2013-41. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

- 2.2 O-2013-27:** Second Reading: ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$27,000,000, TO FINANCE THE COSTS OF CERTAIN CAPITAL IMPROVEMENT PROJECTS

President Willingham asked if anyone would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 7:31 p.m.

Councilor Clark moved to adopt O-2013-27. *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

President Willingham said he would like to open public comment but just for purposes of clarification we will move this item to end of agenda for discussion and vote by council.

2.3 O-2013-32: Second Reading: AN ORDINANCE TO AUTHORZE THE ACQUISITION OF PROPERTIES NECESSARY FOR THE MONTICELLO STREET EXTENSION PROJECT BY MEANS INCLUDING BUT NOT LIMITED TO CONDEMNATION AND ACCEPTANCE BY THE CITY OF SAID PROPERTIES (*Acquisition of properties for the construction of a bridge over the railroad and extension of Monticello Street*)

David Gum of 1879 Allen Road in Berryville, Virginia, stated that he's here today to speak on behalf of Hinkle Harris. He stated just recently in September, he was made aware of this project and is still trying to decipher or be educated on all the details. The way he looks at this project is that industrial land is that, it's industrial land. An industrial park is an industrial park and people who buy and invest into that industrial park should receive that promise that that's what it is. He stated regardless of where one believes their legal capacities are in this, he does not believe it is even right for Council to entertain taking from one company or one industry or two companies or two industries for the benefit of the other. This land and the property is there for the future expansion of Hinkle Harris or Ashworth Brothers and he doesn't believe that it is to be set in motion to be that of Rubbermaid's benefit or one or the other. He believes the city wants to be seen or should be seen as friendly to industry and that it should appreciate its versatile industry and versatile needs. He stated he believes running a road through an industrial park that was never planned or currently or future alternatives that may seek or the city may seek or have objections for are foreign to its intent and it future functionality needs for the industrial park itself. What about when the industries in the industrial park need to expand. If the city cannot be compelled to terminate this project, he would ask that they at least put it on hold and allow those of us who have limited time to evaluate where the road's actually going to be and how it's going to impact those properties which we have not at this time had a fair chance to do.

Jim Davis, Director for the National Fruit Products with David Gum, that's a parent company of Hinkle Harris, stated he meet with the staff and Jim Deskins to try and determine the nature of the project on behalf of the board of directors and David and his family that are owner of Hinkle Harris and National Fruit. He said from the beginning he is encouraging David and the other directors to cooperate in any way they can to help minimize the damage being done to Ashworth Brothers and to Hinkle Harris as the City honors a commitment that they somewhat made to Rubbermaid to provide access for their trucks leaving and trying to go out either to 522 or down route 11 eventually to 81. He stated they really feel strongly that the City should not go overboard at trying to one industry at the expense of two others and he realizes Hinkle Harris was in a difficult status several months ago but then they got back to full operation with 50 employees with the hope of expanding eventually probably tripling the size of the current operation. It appears that there is an easier way to accomplish this objective by going out another direction and still honoring the commitment to Rubbermaid while preventing the elimination of one of the major accesses to Hinkle Harris, taking away their parking lot, and by building a bridge over the railroad that's going to be up in the air 35 feet only about 30-50 feet away from the Hinkle Harris building itself. It's hard to sort of visualize what

that's going to look like but it means that safety and a number other issues, he thinks, come into play. He stated they want the Governor's Opportunity funds to be used for the benefit of Winchester and the City and the area but we want to do so in a fashion that will not harm Hinkle Harris, Ashworth Brothers and future potential for industrial development in that area.

- 2.4 R-2013-51:** Resolution: Authorize the request to the Commonwealth Transportation Board to establish a "Safe Routes to School" project consisting of constructing sidewalks on Wentworth Drive between Cedarmeade Avenue and Valley Avenue

President Willingham asked if anyone would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 7:38 p.m.

Councilor Buettner moved to approve R-2013-51. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

- 2.5 R-2013-52:** Resolution: Authorize the request to the Commonwealth Transportation Board to establish a Transportation Alternatives project consisting of the Green Circle Trail – Phase III

President Willingham asked if anyone would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 7:38 p.m.

Councilor Weber moved to approve R-2013-52. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

3.0 CONSENT AGENDA

- 3.1 O-2013-33:** First Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 26-15 OF THE WINCHESTER CITY CODE PERTAINING TO THE TIME REQUIRED TO REMOVE SNOW AND ICE FROM SIDEWALKS
(Adjusts the time allotted for snow and ice removal from the sidewalks)
- 3.2 O-2013-35:** First Reading –AN ORDINANCE TO REZONE 0.46 ACRES OF LAND AT 317 SOUTH CAMERON STREET *(Map Number 193-01-K-14)* FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY (former jail property)
- 3.3 R-2013-45:** Resolution – Authorization to initiate an ordinance to amend and re-enact Articles 3, 4, 5, 5.1, 6, 7, 8, 9, 13 and 18 of the Winchester Zoning Ordinance pertaining to home occupations permitted in accessory structures with a Conditional Use Permit *(Allows home businesses to operate out of a garage or similar detached structure)*
- 3.4 R-2013-46:** Resolution – Authorization to apply and accept funding through the State Homeland Security Program 2013 Communications Equipment Grant

- 3.5 R-2013-48:** Resolution – Approval to opt out of the VRS Virginia Local Disability Program coverage and elect to provide a comparable employer paid disability program effective January 1, 2014
- 3.6 R-2013-49:** Resolution – Authorize the application for an allocation of \$4,850,000 through the Virginia Department of Transportation Revenue Sharing Program
- 3.7 R-2013-50:** Resolution – Authorize the request to the Commonwealth Transportation Board to transfer \$700,000 of state Revenue Sharing funds to the National/Piccadilly/East Lane Realignment Project
- 3.8 R-2013-54:** Resolution – Clarification on Council’s intent as it pertains the continued operation and growth of the adjoining O’Sullivan industrial facility in light of the recent Jubal Square PUD rezoning
- 3.9 Motion** to direct the Clerk of Council to prepare Certificates of Appreciation for Robert T. Mitchell and Mark Rudolph for their service as members of the Handley Board of Trustees

Vice-President McInturff moved to adopt the Consent Agenda as presented. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

4.0 AGENDA

- 4.1 Motion** to remove from the table O-2013-16 regarding Photo Monitoring Systems (tabled at July 9, 2013 Council Meeting)

Tom Golding of 1027 Kinzel Drive stated he is just here to ask you all too simply vote no to this proposal for red light cameras. One, he does not think there has been a demonstrated need for these cameras. Two, the companies the City has looked at to enter into contracts with have proven themselves to soothe localities in order to protect their profits. They are not about safety. They are strictly about making money and they have sued such places as Houston and Albuquerque, New Mexico over issues of trying to cancel contracts and also unpaid tickets. Given the fiscal risk involved and the lack of demonstrated need by the City of Winchester, he asked Council to say no to this completely.

Vice President McInturff moved to remove from the table O-2013-16. *The motion was seconded by Vice-Mayor Veach then approved 8/1 with Councilor Weber voting in the negative.*

- 4.2 O-2013-16:** Second Reading: AN ORDINANCE TO CREATE CITY CODE SECTION 14-15 – PHOTO MONITORING SYSTEMS TO ENFORCE TRAFFIC LIGHT SIGNALS (Public Hearing closed at July 9, 2013 Council Meeting)

Councilor Weber stated he would like to make a motion to postpone the vote on this indefinitely. With no second, the motion died on the table.

Vice President McInturff moved to approve O-2013-16. The motion was seconded by Councilor Buettner.

Councilor Clark stated the motion is not to get us to enter into a contract with one vendor who's been mentioned previously, it gives us the opportunity to put up an RFP to seek a vendor for these purposes. He just wanted to make that clear that they have not signed a contract with RedFlex or any other vendor at this time.

Councilor Buettner stated that he has yet to find anything that convinces him that this is a long term, good solution. He said he can think of a lot of reasons why he won't vote for this tonight from intrusion to accidents that cause in the back end from taking it to court to the fact that most of the people he finds that do this seem to have checkered pasts. He would much rather see the Winchester Police Department take a more proactive stance in enforcement of traffic violations before going to this extraneous step.

President Willingham stated that he will also be opposing this for the similar comments made by Mr. Buettner. He's not sure if he's seen any evidence that provides any overriding, substantial improvement results. He would rather rely upon our police's judgment to make decisions. He also has major concerns with privacy, so he will also not be supporting this.

Councilor Tagnesi stated that he will also not be supporting this. He said he just doesn't trust this company to come into a small city like this and bring this technology for two intersections. So he won't be supporting this.

Councilor Weber stated he would like to point out that the chief said that he required this to be more tools and he understands that it's very important for the police department to have the necessary tools to succeed. But on the Council Action Memo, it said that the budget impact would be none and he completely believes that is a falsehood in the fact that it does require staff time and officer time. It will require officer time going to court to defend these \$50 dollar tickets when people refuse to pay as it doesn't show their face. It gives too many opportunities to get an out. In addition, once we reach a certain threshold that the vendor has been paid then the rest would go into the City coffer. If that were to happen, he would suggest the money be designated to M.A.D.D., The Laurel Center or another organization so that the general community knows that if they are penalized it's not going into the coffer. He can't support this on multiple levels and as his distinguished colleague, Mr. Buettner, said the best enforcement is to actually have an officer tap on your window because ultimately that is what's going to get your attention. Fifty dollars in our day and age, with all due respect to individual social levels, is not a lot of money and he doesn't think it's going to have the level of impact to make you think twice about running a red light. So he will definitely not be supporting this.

Ordinance O-2013-27 was defeated 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	Nay
Councilor Clark	Nay
Councilor Hill	Nay
Vice-President McInturff	Nay
Mayor Minor	Nay
John Tagnesi	Nay
Vice-Mayor Veach	Nay
Councilor Weber	Nay
President Willingham	Nay

4.3 O-2013-34: First Reading – AN ORDINANCE TO AMEND THE WINCHESTER CITY CODE, CHAPTER 30. VEGETATION, TO ALLOW FOR THE CREATION OF THE ENVIRONMENTAL SUSTAINABILITY TASKFORCE

4.4 R-2013-47: Resolution – Authorization to execute a Memorandum of Understanding between the City of Winchester and Shenandoah University to use to guide programs and projects designed to improve the local quality of life

Councilor Buettner moved to approve R-2013-47. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

4.5 R-2013-53: Resolution – Authorize the consolidation of the Community Development Committee’s functions into a revised committee with concurrent membership with the Winchester Economic Development Authority

Councilor Clark stated that he will not be supporting this. He thinks the efforts of the Community Development Community with affordable and sustainable housing for our residents is directly competing with, if not conflicting with, the Economic Development Authority which seeks to gingerfy for lack of a better expression different parts of our fair City. So I shall not be supporting this motion.

Councilor Weber stated that he would like to remind Councilor Clark that perhaps in the future that as Council as a body has talked about that there may be an opportunity once the funds are available or released from the Taylor Hotel that we might be able to explore the option of this again.

Councilor Buettner moved to approve R-2013-53. *The motion was seconded by Vice President McInturff then approved 8/1 with Councilor Clark voting in the negative.*

4.6 Announce the term expiration of John Dick as an alternate member of the Board of Building Code Appeals effective December 31, 2013 and direct the Clerk of Council to advertise the vacancy. Mr. Dick is eligible for reappointment.

4.7 Announce the term expirations of Stephen Slaughter, Jr. and Kevin McKannan as members of the Planning Commission effective December 31, 2013 and direct the Clerk of Council to advertise the vacancies. Mr. Slaughter and Mr. McKannan are eligible for reappointment.

- 4.8 Announce** the resignation of Richard Ridgell from the Board of Building Code Appeals and the Lord Fairfax Emergency Medical Services Council effective September 18, 2013 and direct the Clerk of Council to advertise the vacancies

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 LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY ON MATTERS OF ACTUAL OR PROBABLE LITIGATION

Councilor Clark moved to convene into executive session at 7:48 p.m. *The motion was seconded by Vice Mayor Veach than approved 9/0.*

MOTION TO CONCLUDE THE EXECUTIVE SESSION OF COMMON COUNCIL CALLED THIS EVENING AND CERTIFY IN ACCORDANCE WITH §2.2-3712 OF THE CODE OF VIRGINIA THAT ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM OPEN MEETING RE-QUIREMENTS AND ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE IDENTIFIED IN THE MOTION BY WHICH THE EXECUTIVE SESSION WAS CONVENEED WERE HEARD, DISCUSSED, OR CONSIDERED IN THE MEETING. ANY MEMBER WHO BELIEVES THAT THERE WAS A DEPARTURE FROM THE FOREGOING SHALL SO STATE PRIOR TO THE VOTE, INDICATING THE SUBSTANCE OF THE DEPARTURE THAT, IN HIS JUDGMENT, HAS TAKEN PLACE. (REQUIRES ROLL CALL VOTE)

Councilor Clark moved to reconvene in open session at 8:22 p.m. *The motion was seconded by Councilor Buettner then approved 9/0.*

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

O-2013-32: Second Reading: AN ORDINANCE TO AUTHORZE THE ACQUISITION OF PROPERTIES NECESSARY FOR THE MONTICELLO STREET EXTENSION PROJECT BY MEANS INCLUDING BUT NOT LIMITED TO CONDEMNATION AND ACCEPTANCE BY THE CITY OF SAID PROPERTIES
(Acquisition of properties for the construction of a bridge over the railroad and extension of Monticello Street)

Councilor Weber stated when Council looked at this program at the very beginning, it was under his understanding and he has shared this with some of you that he was under the impression at that time that Hinkle Harris was leaving our community. Now, it has an individual who has come into to support that endeavor and is again putting out fine craft furniture some of which he'll never be able to afford. It is bringing in jobs into ward 3 and for that he is extremely grateful and he doesn't think he can continue to support the extension of Monticello.

Vice-President McInturff moved to adopt O-2013-32. *The motion was seconded by Councilor Tagnesi 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	Nay
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Nay
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Nay
President Willingham	Aye

5.0 ADJOURNMENT

Vice-Mayor Veach moved to adjourn the meeting at 8:25 p.m. *The motion was seconded and then unanimously approved by voice-vote.*

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