

**WINCHESTER COMMON COUNCIL MEETING
TUESDAY, DECEMBER 10, 2013**

DRAFT

A Regular Meeting of the Winchester Common Council was held on Tuesday, December 10, 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)

MOMENT OF SILENCE – President Willingham led the citizens and councilors in a Moment of Silence.

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

President Willingham stated he would entertain a motion to amend the December 10, 2013 Regular Meeting agenda to add the following two items: the approval of minutes for the November 12, 2013 Regular Meeting and a presentation on an update from the Northwest Virginia Regional Drug and Gang Task Force Heroin Summit. *The motion was made by Vice-President McInturff, seconded by Vice-Mayor Veach, then unanimously approved 9/0.*

APPROVAL OF MINUTES – November 8, 2013 Special Emergency Meeting, November 12, 2013 Special Meeting, November 19, 2013 Special Meeting, November 19, 2013 Work Session, November 26, 2013 Special Meeting, November 26, 2013 Work Session, and November 12, 2013 Regular Meeting

Councilor Weber moved to approve the minutes as presented. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

REPORT OF THE MAYOR

Mayor Minor stated she did not have a report but wanted to wish everyone a very Merry Christmas and a happy, healthy New Year.

REPORT OF THE CITY MANAGER

City Manager Dale Iman reminded Council of the meeting schedule associated with the holidays. He stated the December 17th and December 24th Work Sessions are cancelled this month. In January, Council will meet January 7th for a Work Session at 6:00 p.m. Mr. Iman commended the Public Works staff and the street division employees for clearing the streets and sidewalks during the past two ice and snow storms. He stated the low bid for the Abrams Creek Drainage project on south Loudoun Street came from General Excavation Incorporated (GEI) in the amount of \$2,218,661.00. GEI is a very

good contractor and the City was very pleased with the work they did on Amherst Street. The construction is scheduled to begin in January 2014 and be completed by the end of June 2014.

Police Chief Kevin Sanzenbacher presented a report on the use of heroin in the community. He stated the task force started tracking the use of heroin last fall but it really became an issue this year with 20 deaths since January. It is expected to get worse though December as usage typically increases during the holidays.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated he wanted to make sure Council was aware that the Department of Zoning and Inspections did go to 414 South Braddock Street last week to conduct an inspection on the property to see what progress has been made on the temporary stabilization and were happy to find a fare amount of work has been done. This will be discussed further as the city moves forward to a trial date in February.

1.0 PUBLIC HEARINGS

- 1.1 O-2013-37:** Second Reading – AN ORDINANCE TO AMEND AND REENACT SECTION 22-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS TA-13-488 (*Defines Referral and extends time limit to 100 days*)

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:13 p.m.

Councilor Buettner moved to adopt O-2013-37. The motion was seconded 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-2013-38:** Second Reading – AN ORDINANCE TO AMEND AND REENACT SECTIONS 30-49, 30-51, 30-52 AND 11-38 OF THE WINCHESTER CITY CODE PERTAINING TO NOTICE REQUIREMENTS FOR GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY AND FEES FOR ABATEMENT OF TRASH AND TALL GRASS AND WEEDS BY THE CITY. (*Changes notice requirements for tall grass violations to once per growing season and creation of abatement fee*)

Arthur Christjohn of 523 Fairmont Avenue spoke in opposition of the tall grass and foreign growth coming onto his property from the adjacent neighboring property.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:15 p.m.

Vice-President McInturff moved to adopt O-2013-38. *The motion was seconded by Councilor Weber 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-2013-39:** Second Reading – AN ORDINANCE TO AMEND AND REENACT SECTIONS 6-8, 6-9, AND 6-144 OF THE WINCHESTER CITY CODE PERTAINING TO VACANT BUILDING REGISTRATIONS, FEES AND PENALTIES, AND CIVIL PENALTIES FOR VIOLATIONS OF THE VIRGINIA MAINTENANCE CODE. *(Vacant buildings required to be registered must also be derelict and increases registration fee and penalty)*

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:16 p.m.

Vice-President McInturff moved to adopt O-2013-39. *The motion was seconded by Councilor Clark 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

1.4 O-2013-36: Second Reading – AN ORDINANCE TO CONDITIONALLY REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (*Map Number 249-01-2*) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY RZ-13-500 (*PUD Rezoning for Cedar Creek Place*)

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:17 p.m.

Vice-President McInturff moved to adopt O-2013-36. *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

2.0 PUBLIC COMMENTS

Arthur Christjohn of 523 Fairmont Avenue spoke against the poor job done by his neighbors along Fairmont Avenue in removing snow from the sidewalks. He pointed out the neighbors living in 502-518 Fairmont Avenue who did not clean their sidewalks at all and National Fruit that plowed the snow in front of the sidewalks forcing people to walk in the streets. He also spoke against the snow removal on Valley Avenue as he was forced to walk into the street to catch the bus because no one had cleared their sidewalks.

3.0 AGENDA

3.1 Motion to remove from the table CU-13-372 regarding a telecommunications tower at 700 Jefferson Street (tabled at October 8, 2013 Council Meeting)

A motion was not offered to remove CU-13-372 from the table.

3.2 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)

- 3.3** Motion to remove from the table O-2013-14 regarding a Temporary Sign Provisions and Permit Requirements (tabled at October 8, 2013 Council Meeting)

Vice-Mayor Veach moved to removed O-2013-14 from the table. *The motion was seconded by Councilor Clark then approved 8/1 with Councilor Weber voting in the negative.*

- 3.4 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 (*Revision to temporary sign provisions and permit requirements*)(Public Hearing closed at the October 22, 2013 Special Meeting)

Councilor Tagnesi moved to adopt O-2013-14. *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	Nay
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Nay
President Willingham	Aye

- 3.5 R-2013-56:** Resolution – Consent for the Construction and Financing of a Waste-to-Energy Project by the Frederick Winchester Service Authority

Vice-President McInturff moved to approve R-2013-56. *The motion was seconded by Councilor Weber then unanimously approved 9/0.*

- 3.6 R-2013-59:** Resolution – Adoption of the 2014 State Legislative Agenda

Vice-President McInturff moved to approve R-2013-59. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

- 3.7** Motion to remove Juvenile Detention Center Agreement from the table. (Tabled November 12, 2013 until the next Council Meeting)

City Attorney Anthony Williams stated this was tabled for 30 days based on some issues that arose primarily as a result of litigation the NRADC is currently involved in. It caused the city to look a little closer at the insurance relationship the city has had with the NRJDC. The city found that it has been carrying the NRJDC on its insurance policy. It is his understanding that VML is prepared to have the NRJDC ready to go with their own insurance by the beginning of the

year if not before. He recommended that if Council removes this from the table, a motion be made to authorize the manager to execute it upon proof of compliance with the insurance service agreement.

Vice-President McInturff moved to remove the agreement from the table. *The motion was seconded by Councilor Clark then unanimously approved 9/0.*

3.8 Motion to authorize the adoption of the Juvenile Detention Center Agreement

Mayor Minor moved to adopt the Juvenile Detention Center Agreement as amended by Mr. William's comments. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

4.0 CONSENT AGENDA

4.1 O-2013-41: First Reading – AN ORDINANCE TO AMEND AND REENACT 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 TA-13-493 (Proposal to allow home occupations in accessory structures with a conditional use permit)

4.2 Motion to reappoint Kevin McKannan and Stephen Slaughter, Jr., as members of the Planning Commission each to serve a four year term expiring December 31, 2017

4.3 Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Kim Burke, Stan Corneal, and Brenda Adams for their service as members of the Old Town Development Board

Vice-President McInturff moved to approve the Consent Agenda as presented. *The motion was seconded by Councilor Buettner then unanimously approved 9/0.*

5.0 EXECUTIVE SESSION

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 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 PURSUANT TO §2.2-3711(A) (7) 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 INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.

Vice-President McInturff moved to convene into executive session at 7:28 p.m. *The motion was seconded by Councilor Buettner then unanimously approved 9/0.*

Vice-President McInturff moved to reconvene in open session at 10:15 p.m. *The motion was seconded by Councilor Buettner then unanimously 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

President Willingham stated he would entertain a motion to amend the December 10, 2013 regular meeting agenda to add a motion to remove from the table item CU-13-372 regarding a telecommunications tower at 700 Jefferson Street. *The motion was made by Vice-President McInturff, seconded by Vice-Mayor Veach, then unanimously approved 9/0.*

Mayor Minor moved to remove CU-13-372 from the table. *The motion was seconded by Councilor Clark then unanimously approved 9/0.*

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)

Mr. Williams stated it is his understanding there has been additional information received by Mr. Miller and Mr. Iman that may impact Council's decision to move forward.

Mr. Iman stated the City was informed late last week and followed up with a conversation today that the FAA is reviewing the permits for the tower at 700 Jefferson Street and in the review they came across the fact that there were some oversight errors by the reviewers and there may be some significant

problems with the permit applications as they currently exist. It looks very doubtful that the FAA will approve the permits as requested right now. Staff is working with them to determine what might be the acceptable solution or under what conditions we might be able to build a tower at that location. Staff does not have that information yet.

President Willingham asked if there was a recommendation from staff. Mr. Iman stated the information is so recent that staff still needs to review the data to evaluate all options to bring to Council for consideration.

Councilor Buettner moved to continue the discussions with the FCC on the existing site while exploring other options on alternative sites with Motorola in the case the FCC does not approve this site. The motion was seconded by Vice-Mayor Veach.

Councilor Weber stated he would like to amend the motion if it is alright with Councilor Buettner to explore all technological options as well that may prove more beneficial than what the city has already planned. Councilor Buettner stated he would incorporate that into his motion.

Councilor Buettner's motion was unanimously approved 9/0 as amended.

Councilor Buettner moved to table CU-13-372. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

6.0 ADJOURNMENT

Councilor Buettner moved to adjourn the meeting at 10:20 p.m. *The motion was seconded then unanimously approved 9/0.*

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