

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
May 13, 2014**

A regular session of the Winchester Common Council was held on Tuesday, May 13, 2014 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 7:00 p.m.

PRESENT: Councilor Jeff Buettner, Evan Clark, John Hill, Corey Sullivan and John Tagnesi; 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 councilors in the Pledge of Allegiance.

President Willingham stated he would entertain a motion to amend the agenda to add R-2014-23 approving a refund for unused Cigarette Tax Stamps in the amount of \$10,629.55 to CVS Pharmacy and to add a closed session discussion for legal consultation and for personnel matters immediately following the Public Comments. *The motion was made by Vice-President McInturff, seconded by Vice-Mayor Veach, then unanimously approved 9/0.*

APPROVAL OF MINUTES – March 25, 2014 Work Session, April 8, 2014 Regular Meeting, April 15, 2014 Special Meeting, April 15, 2014 Work Session, April 22, 2014 Work Session, April 22, 2014 Special Meeting, and May 6, 2014 Special Meeting

Vice-President McInturff moved to approve the minutes as presented. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

REPORT OF THE MAYOR

R-2014-13: Resolution – Honor the retirement of Battalion Chief Kevin M. Yost

Vice-President McInturff moved to approve R-2014-13 honoring Battalion Chief Yost. *The motion was seconded by Councilor Tagnesi then unanimously approved 9/0.*

R-2014-22: Resolution – Recognition of National Emergency Medical Services Week

Vice-President McInturff moved to approve the resolution recognizing National Emergency Medical Services Week. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

REPORT OF THE CITY MANAGER

City Manager Dale Iman announced the city will be the subject of an article in *Business in Focus* magazine. This is the first time a city in Virginia has been featured in the magazine. The article will be released on August 1st.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated he had nothing to report.

1.0 PUBLIC HEARINGS

1.1 O-2014-09: Public Hearing – AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF S. INDIAN ALLEY RIGHT-OF-WAY ADJOINING THE PROPOSED SHENANDOAH VALLEY DISCOVERY MUSEUM AT 19 W. CORK STREET AND CONDITIONALLY CONVEY IT TO THE SHENANDOAH VALLEY DISCOVERY MUSEUM

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:08 p.m.

President Willingham announced the item was withdrawn by the applicant.

Councilor Buettner moved to withdraw O-2014-09 from the agenda. The motion was seconded by Councilor Clark.

Councilor Buettner stated he understands why the applicant withdrew the request but it is still a dangerous blind intersection and suggested the city look at what can be done to improve it.

The motion was unanimously approved 9/0.

1.2 O-2014-07: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-17 AND 18-1 OF THE WINCHESTER CITY CODE TO ELIMINATE FORMALLY APPOINTED COUNCIL LIAISONS FROM THESE AND OTHER COUNCIL APPOINTED BOARDS AND COMMISSIONS

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:10 p.m.

Vice-President McInturff moved to approve O-2014-07. *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 Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.3 O-2014-10: Second Reading – AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FLOODPLAIN REGULATIONS

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:12 p.m.

Vice-Mayor Veach moved to approve O-2014-10. *The motion was seconded by Councilor Hill 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 Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.4 CU-14-143: Conditional Use Permit – Request of Ryan Hoover dba Vintage Bavarian LLC for a conditional use permit for auto service use at 24-26 West Hart Street (Map Number 212-01-M-2) zoned Central Business (B-1) District

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:13 p.m.

Vice-President McInturff moved to approve CU-14-143. *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 Sullivan	Aye

Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.5 R-2014-18: Resolution – Approval of the Annual Action Plan for the use of CDBG and HOME Allocation for FY15

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:14 p.m.

Councilor Buettner moved to approve R-2014-18. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

1.6 R-2014-19: Resolution – Approval of an amendment to the 2013-2017 Consolidated Plan

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:14 p.m.

Councilor Buettner moved to approve R-2014-19. *The motion was seconded by Vice-President McInturff then unanimously approved 9/0.*

1.7 Public Hearing: Re-appointment of Erica Truban as an “At-Large (Ward 4)” member and Vince Di Benedetto as a “Ward 2” member of the Winchester School Board each to serve a four year term ending June 30, 2018

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:16 p.m.

2.0 PUBLIC COMMENTS

President Willingham asked if there was anyone wishing to address Council. Seeing none, he closed the public comments at 7:16 p.m.

MOTION TO CONVENE IN EXECUTIVE SESSION 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, AND APPOINTMENT OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING BUT NOT LIMITED TO THE APPOINTMENT OF MEMBERS OF COUNCIL APPOINTED BOARDS AND COMMISSIONS AND PURSUANT TO SECTION 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

Vice-President McInturff moved to convene into executive session at 7:16 p.m. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

Vice-President McInturff moved to reconvene in open session at 8:52 p.m. The motion was seconded by Councilor Tagnesi 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
Councilor Sullivan	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

3.0 CONSENT AGENDA

- 3.1 O-2013-40:** First Reading – AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 9 OF THE WINCHESTER CITY CODE PERTAINING TO WATER PROTECTION (*Implementation of applicable provisions of the Virginia Stormwater Management Plan*)
- 3.2 O-2014-11:** First Reading – AN ORDINANCE TO AMEND CHAPTER 11 OF THE WINCHESTER CITY CODE BY ADDING A NEW SECTION, 11-24.1, THAT ESTABLISHES A FEE FOR GARBAGE AND REFUSE COLLECTION
- 3.3 O-2014-12:** First 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, 2014
- 3.4 O-2014-15:** First Reading – AN ORDINANCE TO APPROVE THE APPLICATION OF THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OF WINCHESTER, FREDERICK AND CLARKE COUNTIES FOR TAX EXEMPT STATUS BY DESIGNATION PURSUANT TO CHAPTER 27 DIVISION 5 OF CODE OF THE CITY OF WINCHESTER
- 3.5 O-2014-14:** First Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 6, 7, 8, 9, 10, 13, 15.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS, PERMITTED USES, AND

USES REQUIRING A CONDITIONAL USE PERMIT FOR ALTERNATIVE FINANCIAL INSTITUTIONS **TA-14-118**

- 3.6 O-2014-13:** First Reading – AN ORDINANCE TO AMEND ARTICLES 1 AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF MEDICAL CARE FACILITY AND PERMITTED USES IN THE PLANNED COMMERCIAL (PC) DISTRICT **TA-14-120**
- 3.7 O-2014-16:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 14-17 AND 14-18 OF THE CODE OF THE CITY OF WINCHESTER REGARDING VEHICLE LICENSE FEES
- 3.8 O-2014-17:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-72 OF THE CODE OF THE CITY OF WINCHESTER REGARDING MEALS TAX LEVY AND RATE
- 3.9 O-2014-18:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-91 OF THE CODE OF THE CITY OF WINCHESTER REGARDING TRANSIENT LODGING TAX LEVY AND RATE
- 3.10 O-2014-19:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-171 OF THE CODE OF THE CITY OF WINCHESTER REGARDING LEVY OF CIGARETTE TAXES
- 3.11 R-2014-15:** Resolution – Approval of a refund in the amount of \$70,691.37 to Melco, Inc. for erroneously assessed Real Estate Taxes
- 3.12 R-2014-16:** Resolution – Approval to execute grant and cooperative agreements with the Federal Transit Administration on behalf of the Winchester Transit
- 3.13 R-2014-17:** Resolution – Approval to execute and file an application to the Virginia Department of Rail and Public Transportation for a grant of financial assistance
- 3.14** Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Dan Martin, John Marker, and Sue Robinson for their service on the Winchester-Frederick County Tourism Board
- 3.15** Announce the term expiration of Robbie Marchant as a member of the Board of Zoning Appeals effective July 31, 2014. Ms. Marchant is eligible for re-appointment.

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

4.0 AGENDA

- 4.1 O-2014-08:** Second Reading – AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF PROPERTIES NECESSARY FOR THE REALIGNMENT

OF NATIONAL AVENUE GATEWAY IMPROVEMENT PROJECT BY MEANS INCLUDING BUT NOT LIMITED TO CONDEMNATION AND ACCEPTANCE BY THE CITY OF SAID PROPERTY (*Public Hearing Closed and Item Tabled at April 8, 2014 Regular Meeting*)

Vice-Mayor Veach moved to remove O-2014-08 from the table. *The motion was seconded by Councilor Hill then unanimously approved 9/0.*

Vice-President McInturff moved to approve O-2014-08. *The motion was seconded by Councilor Hill 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 Sullivan	Nay
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

4.2 O-2014-20: First Reading – AN ORDINANCE TO AUTHORIZE THE APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2015

President Willingham stated it has come to our attention there have been impacts on the 2014 budget due to refunding some amounts. He asked Ann Burkholder, Commissioner of Revenue, and Mary Blowe, Finance Director, to provide an update on the tax matters that have come to their attention.

Ms. Burkholder stated one of the refunds that is significant is an adjustment in sales tax revenue that is a result of erroneously reporting sales to the City of Winchester that should have been reported to another locality. The state took half of the adjustment in the previous month and will take the other half this month. She has advised the Finance Director that it would be a good idea to drop that amount by \$100,000 for the coming year. The total amount of the refunds is \$580,000. The other refund is to Oasis Brands that has moved out of the City but has filed and paid for a 2014 business license.

Ms. Blowe stated the impact will be a \$193,000 reduction to the budget from the sales tax impacts.

Vice-President McInturff moved to eliminate the Assistant City Manager position from the FY 2015 Budget effective July 1, 2014 and freeze all open positions including by not limited to the EDA Director and HR Director for

current and FY 2015 Budget with the exception of the two currently proposed firefighter positions. The motion was seconded by Vice-Mayor Veach.

Vice-President McInturff stated the reason for his motion is with a \$600,000-700,000 budget short fall several items weigh heavy on his mind including with the necessity to have to increase taxes to meet the current budgetary needs, the possibility of having to split the Purchasing Agent/Risk Manager position, and the need to hire a new City Manager.

The motion was unanimously approved 9/0.

4.3 R-2014-06: Resolution – Adoption of the 2014 Strategic Plan Leadership Guide

Councilor Buettner moved to adopt the 2014 Strategic Plan Leadership Guide. *The motion was seconded by Councilor Tagnesi then unanimously approved 9/0.*

4.4 R-2014-14: Resolution – Adoption of the 2014 Strategic Plan Governance Guide

Vice-Mayor Veach moved to table the adoption of the 2014 Strategic Plan Governance Guide. *The motion was seconded by Councilor Clark than unanimously approved 9/0.*

R-2014-23: Resolution – Approve a refund for unused Cigarette Tax Stamps in the amount of \$10,629.55 to CVS Pharmacy, Inc.

Vice-President McInturff moved to approve R-2014-23. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

5.0 EXECUTIVE SESSION

5.1 MOTION TO CONVENE IN EXECUTIVE SESSION 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, AND APPOINTMENT OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING BUT NOT LIMITED TO THE APPOINTMENT OF MEMBERS OF COUNCIL APPOINTED BOARDS AND COMMISSIONS AND PURSUANT TO SECTION 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.

Vice-President McInturff moved to convene into executive session at 9:05 p.m. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

Vice-President McInturff moved to reconvene in open session at 9:19 p.m. *The motion was seconded by Vice-Mayor Veach 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
Councilor Sullivan	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

President Willingham stated he would entertain a motion to add to the agenda a motion to allow the President to enter into a management consulting and executive search contract with Gerhart Enterprises. *The motion was made by Vice-President McInturff, seconded by Councilor Clark, then unanimously approved 9/0.*

Vice-President McInturff moved to approve the motion to allow the President to enter into the management consulting and executive search contract with Gerhart Enterprises. *The motion was seconded by Councilor Clark then unanimously approved 9/0.*

President Willingham announced the appreciation of Council and the city for all of the hard work of Mr. Dale Iman. He stated they appreciate all he has done for the city by introducing the strategic plan, the plans to improve the sidewalk and pavement replacement schedules, and other things that were not in place before he came here. This Friday will be Dale's last day with the City and he will be paid out as his contract states with all of the benefits due to him. President Willingham stated Council wishes him well and the very best in his retirement.

6.0 ADJOURNMENT

Vice-President McInturff moved to adjourn the meeting at 9:20 p.m. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*