



**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
November 11, 2014**

DRAFT

A regular session of the Winchester Common Council was held on Tuesday, November 11, 2014 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 7:00 p.m.

PRESENT: Councilor Evan Clark, John Hill, Corey Sullivan and John Tagnesi; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach; President John Willingham (8)

ABSENT: Councilor Jeff Buettner (1)

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 – August 26, 2014 Special Meeting, October 14, 2014 Regular Meeting, October 28, 2014 Work Session, and October 28, 2014 Special Meeting

Vice-President McInturff moved to approve the minutes as presented. *The motion was seconded by Councilor Hill then unanimously approved 8/0.*

REPORT OF THE MAYOR

Mayor Minor stated she knows she speaks for all of Council when she offers her heartfelt thanks to all of the veterans for their service to our country that enables all of us to have the freedom and the kind of life we are living today. Mayor Minor announced there is a new plaque on North Cameron Street in honor of Mary Greenhow Lee who had an extensive diary which survives today as one of the most informative records of daily life during the Civil War. Mayor Minor also announced the Discovery Museum has had 42,200 visitors since January 2014 and hopes to reach 50,000 by the end of the year. This includes being closed for nine months.

REPORT OF THE CITY MANAGER

City Manager Eden Freeman stated she had several announcements beginning with the Christmas parade scheduled for December 1st at 7:00 p.m. with the tree lighting immediately after. The Jubal Early/Millwood Avenue traffic signal synchronization is on schedule and should be operational by Thanksgiving. The first public open house for the Winchester Towers is scheduled for November 19th at 6:30 p.m. in the Exhibit Hall at City Hall. The FY15 street paving should be complete by Thanksgiving however some may have to wait until the spring time if the snow arrives earlier than expected. Leaf collection began on October 27th and updates are available on the City's website. Last,

she announced Winchester has been listed in the November edition of *Southern Living* as a “Small Town We Love.”

REPORT OF THE CITY ATTORNEY

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

PUBLIC HEARINGS

- 1.1 O-2014-39:** Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 18, AND 19 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS OF GROUP HOME; PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES; PERMITTING, NOTIFICATION REQUIREMENTS, AND APPEAL PROCEDURES FOR FAMILY DAY HOMES; AND SITE PLAN EXPIRATION TIMELINES. **TA-14-477** (Amendment modifies several sections of the Zoning Ordinance to reflect changes made to the Code of Virginia in recent General Assembly sessions)

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:05 p.m.

Vice-Mayor Veach stated he noticed a couple of changes in some of the old language the needs to be updated so he asked that it be brought back but he thought Council could still vote on the amendments tonight.

Vice-Mayor Veach moved to approve O-2014-39. *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	Absent
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

- 1.2 O-2014-40:** Second Reading – AN ORDINANCE TO REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (*Map Number 249-01- - 2 - > <01*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED DISTRICT DEVELOPMENT (PUD) OVERLAY AND PARTIAL CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY. **RZ-14-490**

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:06 p.m.

Vice-President McInturff moved to approve O-2014-40. *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	Absent
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-2014-36: Second Reading – AN ORDINANCE TO GRANT A PERMANENT EASEMENT TO TAYLOR PAVILION, LLC WITHIN THE PUBLIC RIGHT-OF-WAY IN FRONT OF 121-129 NORTH LOUDOUN STREET

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:07 p.m.

Mayor Minor moved to approve O-2014-36. *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	Absent
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-14-558: Conditional Use Permit – Request of VFW Post 2123, Inc. for a private club at 121 Bruce Drive (*Map Number 311-01-5*) zoned Highway Commercial (B-2) District

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.

Councilor Clark moved to approve CU-14-558. *The motion was seconded by Councilor Hill then unanimously approved 8/0.*

1.5 Public Hearing: Appeal of the decision by the Board of Architectural Review (BAR-14-543) regarding the replacement of deteriorating windows for the property located at 500 North Braddock Street

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:09 p.m.

City Attorney Anthony Williams stated the applicant bringing forth this appeal had period windows in the structure but had aluminum storm windows on top of those windows. He removed the aluminum windows and replaced the windows with vinyl sided windows which are of a material that is not generally accepted by the BAR under the Historic District Guidelines. Council deliberated about this matter and it is his belief that Council was of the opinion that while the BAR was correct in its application of the Historic District Guidelines, they did mitigate a situation that was less in compliance. Therefore, Council was inclined to allow him to install two more of the vinyl windows but leave two period windows with the understanding that he would also install muttons that were consistent with the period windows previously installed. That modification of the BAR's decision is reflected in the resolution before Council tonight.

Councilor Hill encouraged the citizens in the Historic District to take responsibility and follow the rules and the BAR to reach out to the citizens more.

Councilor Tagnesi stated an applicant in the north end had enclosed his porch but had to take it down for not complying with the rules after going in front of the BAR. He sees this as an inconsistency if Council says it is okay for this person to do it and the other gentleman couldn't keep his porch so he will be voting against this.

Vice-Mayor Veach agreed that Council does not want to set a precedent but in looking at this house, it is already out of compliance with the siding it is wrapped in.

Vice-President McInturff suggested the Inspections Department make residents aware they are in the Historic District when they come in for permits.

Vice-President McInturff moved to approve the resolution with a modification of the BAR decision. *The motion was seconded by Councilor Hill then approved 7/1 with Councilor Tagnesi voting in the negative.*

2.0 PUBLIC COMMENTS

Arthur Christjohn of 523 Fairmont Avenue asked why the city does not have e-billing to prevent items from getting lost in the mail or being delivered to the wrong address. He also asked why the cross walks on Millwood Avenue near Toys R Us have been removed and asked that they be replaced.

President Willingham asked if there was anyone else wishing to address Council. Seeing none, he closed the public hearing at 7:19 p.m.

3.0 CONSENT AGENDA

3.1 O-2014-42: First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 2-24 OF THE WINCHESTER CITY CODE TO REVISE THE MEETING SCHEDULE OF COMMON COUNCIL AND ALLOW FOR AN ADDITIONAL REGULAR MONTHLY MEETING OF COMMON COUNCIL

3.2 R-2014-46: Resolution – Approval for the issuance of up to \$55,000,000 of Revenue Bonds by the Economic Development Authority of the City of Winchester, Virginia for the benefit of Westminster-Canterbury of Winchester, Inc.

Mayor Minor moved to approve the Consent Agenda as presented. *The motion was seconded by Councilor Clark then unanimously approved 8/0.*

4.0 AGENDA

4.1 Motion to accept the report of the in- house viewers for: AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT **SV-14-433**

Councilor Sullivan moved to accept the report of the in-house viewers. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

4.2 O-2014-37: Second Reading – AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT **SV-14-433**

Councilor Sullivan moved to approve O-2014-37. *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	Absent
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye

Vice-Mayor Veach
President Willingham

Aye
Aye

- 4.3 O-2014-43:** First Reading – AN ORDINANCE TO AMEND AND REENACT SECTION 10-6 AND ENACT SECTION 10-9 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIDE AND REAR YARD SETBACK REQUIREMENTS AND SPECIAL PROVISIONS FOR REDEVELOPMENT SITES IN THE COMMERCIAL INDUSTRIAL (CM-1) DISTRICT **TA-14-593** (*Amendment establishes zero side and rear yard setback conditions in limited situations for properties in the CM-1 district identified as redevelopment sites within the Comprehensive Plan's Character Map*)

President Willingham asked the Director of Zoning and Inspections, Aaron Grisdale, for some clarifications on this text amendment. Mr. Grisdale stated a zero setback occurs when the property line goes along the side of a building causing the buildings on two properties to butt up against each other. This amendment is for existing buildings on properties in the CM-1 District.

- 4.4** Motion to re-appoint Jules Bacha as a member of the Parks and Recreation Board for a three year term expiring April 30, 2017

Vice-President McInturff moved to approve the reappointment of Jules Bacha. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

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 AND PURSUANT TO §2.2-3711(A)(3) AND (6) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF THE ACQUISITION AND DISPOSITION OF AN INTEREST IN REAL PROPERTY FOR A PUBLIC PURPOSE WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED.

Vice-President McInturff moved to convene into executive session at 7:23 p.m. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

Vice-President McInturff moved to reconvene in open session at 8:49 p.m. *The motion was seconded by Vice-Mayor Veach then unanimously approved 8/0.*

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	Absent
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

6.0 ADJOURNMENT

Vice-President McInturff moved to adjourn the meeting at 8:50 p.m. *The motion was seconded by Councilor Clark then unanimously approved 8/0.*

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