



**WINCHESTER COMMON COUNCIL
IN WORK SESSION
NOVEMBER 24, 2015**

A Work Session of the Winchester City Council was held on Tuesday, November 24, 2015 in the Council Chambers, Rouss City Hall. Council President John A. Willingham called the meeting to order at 7:06 PM.

1. Call to Order

Present: Councilors Evan Clark, John Hill, Milt McInturff, Kevin McKannan, and Corey Sullivan; Mayor Elizabeth Minor; Vice Mayor Les Veach; Vice President William Wiley; and President John Willingham (9)

Absent: None (0)

2. Public Comments

Will Radosevich of 208 and 210 North Kent Street stated he thinks there are some options to satisfy the parking issues. One is the George Washington Autopark that is used by all of the restaurants in the area. He is not clear why businesses like Chop Stick can't use it as effectively as the other establishments. He suggested this may be an opportunity to modify or adjust the restricted residential parking permits to use meters at the same time with varying timeframes. Those were his initial thoughts from a neighborhood perspective. He knows there have been some questions from Council regarding why parking cannot be put in the back of his building. He stated at this point, he does not have access to Fairfax Lane. There is one property between his property and Fairfax Lane that only has about 25 feet of backyard according to the GIS information. He does not think that will allow enough room for parking spaces for their tenants plus an easement for access to his property. That leaves the option of contacting the Italian company that owns the property where Another Chance Church is located. He suspects gaining an easement from a for-profit company will have a cost to it. He would also have to go through the Preservation of Historic Winchester for any changes to the landscaping and buildings. He would also have to work with the Winchester Board of Architectural Review for the modifications to the land. There will also be an expense to take down four or five trees, grading the land and putting asphalt or rock in. It would not be a simple matter with the approvals, time and expense to actually put a parking lot in the back.

Thomas Baylor of 209 North Kent Street spoke on behalf of Just Us Barbershop and the clients it serves. He stated they have been a pillar in the community since the early 1990s on Kent Street then Piccadilly Street and then back on Kent Street. When they were on Piccadilly Street, there were businesses downstairs and

tenants who lived upstairs. Everyone knew what the deal was and they needed to find parking, it was just the norm. He thinks the special permit parking is the anti-small business approach to it. He does not agree with it nor does he believe in it. He thinks everyone has been getting along down there. He is starting to understand about turn over but their voice needs to be heard. He would like to keep things the way they are now where everyone is getting along and they will just figure it out.

Tracy Themak, Zoning Counsel for Verizon, stated she was available to answer any questions Council may have about agenda item 3.4.

3. Agenda

3.1.R-2015-41: RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WINCHESTER CONCURRING WITH A FINANCING TO BE UNDERTAKEN BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE TOWN OF MOUNT JACKSON, VIRGINIA, TO BENEFIT SHENANDOAH UNIVERSITY

Eden Freeman, City Manager, presented the request for Shenandoah University for new bonds that they are planning to issue for new construction of an athletics and event center, a three story parking garage, and a student housing facility. She stated they are planning to work with the Mount Jackson Economic Development Authority because the City and County's current debt capacity has already been maxed out. Under the terms of the resolution, the IRS regulations require that the localities where they are based approve the issuance through a different EDA. She stated it is her understanding this has been done in the past and introduced Demetrius Carmichael, Associate Vice President at SU, Mitch Moore, and Chris Kulp, bond council with Hunter & Williams to answer any questions Council may have.

Vice Mayor Veach stated the City is interested in doing an events center downtown and asked what the capacity will be for the one at SU. Mr. Moore stated it will be more of a field house but he expects certain entities will want to use it during the year. The center will hold 1,500 - 2,000 people.

Vice President Wiley excused himself and stated his employer is working with Shenandoah University on this opportunity.

Councilor Sullivan asked how far down the valley will Shenandoah University keep going to borrow money for the EDA. President Willingham stated the EDA does not borrow the money. They are just providing their tax exemption.

President Willingham asked if the City of Winchester will share any of the fees since SU is based here even though it is through the Mount Jackson EDA. Mr. Kulp stated typically not.

RESULT:	APPROVED TO FORWARD [8 TO 0]	Next: 12/8/2015 6:00 PM
MOVER:	Milt McInturff, Council Member	
SECONDER:	Elizabeth Minor, Mayor	
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Willingham	
ABSTAIN:	Wiley	

3.2.R-2015-42: A Resolution Adopting the 2016-2020 City of Winchester Strategic Plan

Craig Gerhart of Gerhart Enterprises present the proposed strategic plan developed to advance the goals Council set at the January 30, 2015, retreat. He stated the strategic plan will help to guide the City Manager and staff with the budget as the goals move forward.

Ms. Freeman reviewed the objectives and strategies developed by staff for each goal. She stated each objective has measures and action items that will be used when developing the budget for FY17. She stated this is a draft proposal and asked for Council's feedback on the plan.

Councilor Sullivan stated Goal 1 is certainly something Council wants to do but it does not specifically mention entrepreneur and suggested it is something to be considered. Ms. Freeman agreed and stated that is the kind of feedback she would like to receive. Councilor Sullivan suggested having something that tells a person who wants to start a business in the city who they need to talk to in City Hall. He stated something to encourage people to start a business and what to do with the City.

Vice Mayor Veach stated on Goal 1 Objective 1 regarding existing partnerships in the city has CTE listed but not higher education. He does not want to exclude the higher education entities in town and asked that staff reach out to them. Ms. Freeman stated they are included as part of the outreach and are included in the Other Agencies and Offices category.

Vice Mayor Veach stated in regards to Objective A, at the recent National League of Cities conference, it was clear that cities have to be very aggressive when going after funding for redevelopment through government or even vendor agencies and suggested including that in the plan.

Vice Mayor Veach stated in Goal 4 Objective B regarding government transparency, Council has always emphasized the desire for a citizen to be able to sit at their computer to look at their statement, pay their bills, and download forms online. Ms. Freeman stated it is included in the plan. She stated the utility billing software is slated to go live early next year and that is where residents will be able to pay their bills online.

Councilor Sullivan asked if staff will do a big rollout to the citizens. Ms. Freeman stated absolutely.

President Willingham asked what feedback was received from staff on the process. Ms. Freeman stated the response has been very positive. One of the complaints she heard when she arrived was that there really was not any tangible things that staff knew they could attribute to in the old plan. That is why it was so important for staff to be able to read and understand the action items and where they fit into the plan.

President Willingham stated it appears the feedback from the Citizen Survey has been integrated into the plan which makes this a good document. He suggested getting this out to the citizens when it is rolled out. He also asked how to keep it a living document. Ms. Freeman stated if Council adopts the strategic plan, staff will be setting up target dates to accomplish to goals. The plan is a working document that will be revisited monthly by staff to monitor the progress. Council will receive quarterly updates and an annual update will be presented with the budget.

Vice President Wiley asked how the Comprehensive Plan fits into the plan and when will it come back to Council. Tim Youmans, Planning Director, stated the Comprehensive Plan must be reviewed every five years by State Code. It is scheduled to be reviewed next year.

RESULT:	APPROVED TO FORWARD [UNANIMOUS]	Next: 12/8/2015 6:00 PM
MOVER:	Milt McInturff, Council Member	
SECONDER:	Bill Wiley, Council Vice President	
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley, Willingham	

3.3.O-2015-27: First Reading - TA-15-589 AN ORDINANCE TO AMEND AND REENACT ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FENCE HEIGHTS IN REQUIRED FRONT AND CORNER SIDE YARDS IN THE M-1 (LIMITED INDUSTRIAL) AND M-2 (INTENSIVE INDUSTRIAL) ZONING DISTRICTS. (Amendment Will Allow for Increased Fence Heights in Front and Corner Side Yards in Industrial Districts).

Aaron Grisdale, Zoning & Building Inspections Administrator, presented the privately sponsored text amendment to increase the allowable fence height from four feet to five feet in the front and side yards in the industrial zoning districts.

Vice Mayor Veach asked what the need for the extra foot was. Mr. Grisdale stated it is mainly for security.

RESULT:	APPROVED TO FORWARD [UNANIMOUS]	Next: 12/8/2015 6:00 PM
MOVER:	Elizabeth Minor, Mayor	
SECONDER:	Les Veach, Vice Mayor	
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley, Willingham	

3.4.CU-15-558 Request of Diane M. De Laet on Behalf of Verizon Wireless for a Conditional Use Permit for a Telecommunication Facility at 385 Battaile Drive (Map Number 351-02- -5) Zoned Limited Industrial (M-1).

Tim Youmans, Planning Director, presented the request for a new telecommunications tower on Battaile Drive. He stated the pole will be 80 feet tall but the applicant has requested the ability to increase it by 20 feet which is still allowable for the district. The Planning Commission recommended approval with the conditions for a gravel drive instead of a paved drive and that the gravel drive would cease if the use of the facility ceases.

Councilor McKannan asked how tall the tower is located immediately south of Panera Bread on Pleasant Valley Road for a point of reference. Mr. Youmans stated he was not sure.

Vice Mayor Veach asked where the fall zone would be. Mr. Youmans stated there is not a regulation for a fall zone. However, the tower will be in the back corner of the property and there are no other structures near it on the adjoining properties.

Councilor Sullivan asked what would happen if the tower is abandoned in the future. Mr. Youmans stated the third condition provides for the removal of the facility.

President Willingham asked which facilities do Council have to approve and which can be approved administratively. Mr. Youmans stated modifications to a tower can be approved administratively but new towers have to come to Council for approval.

RESULT:	APPROVED TO FORWARD [UNANIMOUS]	Next: 12/8/2015 6:00 PM
MOVER:	Bill Wiley, Council Vice President	
SECONDER:	Evan H. Clark, Council Member	
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley, Willingham	

3.5.O-2015-28: First Reading - An Ordinance to Add Article 31 Section 45 and Amend Section 65 of the Winchester City Code Pertaining to Collection of Taxi Cab Fees

Police Chief Kevin Sanzenbacher presented the proposal to increase the fee structure for taxi driver permits from \$25.00 to \$50.00 to help recover the background checks and costs to the department. He stated the ordinance will also establish a fee of \$100.00 for new taxi operations coming into Winchester to

recover the costs for investigating the new owner and operation. Recently, the Commonwealth of Virginia has allowed transportation network companies (TNC) such as UBER to operate in the state. This ordinance establishes the required permits for the TNC drivers to get a taxi permit and Certificate of Public Convenience. The ordinance was sent to the current taxi companies operating in the city and the only concern received was the cost was too high for new drivers getting a permit.

Mayor Minor asked what the fees from other localities were. Chief Sanzenbacher stated the City's fees are pretty close to the localities that are geographically closer but they are on the higher side.

Councilor Sullivan asked how UBER is regulated. Chief Sanzenbacher stated they are regulated by the Department of Motor Vehicles (DMV) who issues a black and yellow sticker for instate vehicles and a placard for out of state vehicles doing business in Virginia. There is nothing in the state ordinance that prohibits localities from enforcing their ordinances on taxi cabs and his interpretation is that it would also apply to UBER or other TNCs.

Councilor Sullivan asked what would happen if one locality cut their fees and received all of the registrations. Chief Sanzenbacher stated the operators would still need a certificate to operate in the city.

Anthony Williams, City Attorney, stated the law regarding UBER and Lyft is still evolving so this is an anticipatory adoption.

President Willingham stated the UBER drivers are independent contractors. If a taxi company comes to Winchester, the company would have to pay for the Certificate of Public Convenience. He asked if the company and the driver would have to pay for the certificate separately. Chief Sanzenbacher stated currently there is no fee for a Certificate of Public Convenience. If a business wants to operate in Winchester, they do have to have the cars inspected and the background check must be done on the owner.

President Willingham asked if UBER or Lyft would pay for the certificate and the driver pay for the permits like other companies. Chief Sanzenbacher stated his understanding is the drivers for UBER are independent contractors who receive 1099s for tax purposes so the driver would be expected to register as a company. President Willingham stated that would be inconsistent from what is in place today where the company pays for the certificate. Chief Sanzenbacher stated he believes it is consistent with what the City does now. The drivers of the taxi company are bearing the name of the company. Where these are independent contractors, he does not think UBER executives will want to come to register their company for their drivers.

President Willingham expressed his concern for limiting the competition by

requiring the UBER drivers to pay \$300. Chief Sanzenbacher stated the fee will be \$100 not \$300. Ms. Freeman stated the UBER drivers will also be required to have a business license.

Councilor Sullivan asked if they would be required to have insurance. Ms. Freeman stated they would.

President Willingham stated he would like to keep it consistent from the entrepreneur perspective. He is generally fine with what is trying to be accomplished but is concerned it will need to be fixed four more times. Chief Sanzenbacher stated the City Manager has been forwarding Council's questions and staff have been trying to fix it. He is trying to recapture some of the costs as more and more drivers come on. He thinks \$100 for the certificate and \$50 for the driver is a reasonable cost but he does recognize the concerns. He stated there is also a concern with the two-inch lettering that has to go on each side of the cab required by ordinance. State code does require them to have lettering on the cab but it does not specifically state what it is.

Councilor Hill asked how long a certificate lasts. Chief Sanzenbacher stated it is an annual certificate. Councilor Hill asked if they would have to pay another \$100 after one year. Chief Sanzenbacher confirmed they would.

Councilor Hill asked if Polly's Cab is charged for the parking spots on Piccadilly Street. Chief Sanzenbacher stated it would be through the Parking Authority.

Councilor McKannan asked if the permit was increasing from \$25 to \$150 annually. Chief Sanzenbacher stated for the average taxi driver it will increase from \$25 to \$50. When his sergeant checked, there was no service with UBER in the area. He doesn't know if there are specific time frames for their service but it is easier to determine when a regular taxi driver is operating for enforcement.

Councilor McKannan asked if staff will be able to recapture the costs from the businesses already operating. Chief Sanzenbacher stated they will be required to pay the \$100 when they renew their certificate.

Councilor Sullivan asked if an UBER driver from Harrisonburg would need to register to come to Winchester. Chief Sanzenbacher stated they would need to register to pick up passengers in Winchester but not to drop off a passenger.

President Willingham asked if it would make sense to see what comes out of the General Assembly first and then revisit this at that time. Chief Sanzenbacher stated he is not sure this has been in effect long enough. The DMV just established regulations in July. He searched before this meeting and could not find a locality that has changed its ordinance so far.

Mr. Williams stated whether or not this code section will be applicable to UBER or

Lyft is in flux but it is anticipated that it will be very soon. The ordinance does not talk about UBER or Lyft, it only talks about the fees.

President Willingham asked if the City should wait to see what is going to come out and then address these things. He does not disagree with anything said or the need to recoup the fees but it feels like a comprehensive review will be needed and he wonders if it should be done all at once. Chief Sanzenbacher stated it would be up to Council. He is focusing on recouping some of the increased costs right now. He recognizes there are issues with UBER and Lyft that will have to be dealt with. The officers are educated on how to determine who is an operator by the stickers on the car and to pull them over if they see them operating.

Mayor Minor asked if the certificate will be good from January to January. Chief Sanzenbacher stated that is correct.

President Willingham stated he will vote against this only because he would prefer to wait to see what comes out of the State Legislation and then do it all at once. He wants to get it right and do it all at once.

RESULT:	APPROVED TO FORWARD [8 TO 1]	Next: 12/8/2015 6:00 PM
MOVER:	Les Veach, Vice Mayor	
SECONDER:	John W. Hill, Council Member	
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley	
NAYS:	Willingham	

3.6.O-2015-18: Second Reading - Sv-15-406 an Ordinance to Vacate a Portion of an Alley Right of Way Between 328 and 400 Highland Avenue and Convey it to the Adjacent Property Owner(S).

Mr. Youmans presented an update on the street vacation of the alley right-of-way between 328 and 400 Highland Avenue. Mr. Youmans stated the Report of the Viewers was presented at the last meeting and showed there would be an inconvenience to the adjoining property caused by cutting off the mail and refuse service to the tenant of 328 ½ Highland Avenue. Separate to that, Police Chief Sanzenbacher and Fire Chief Baldwin were asked to submit updated information regarding the public safety inconvenience. It was clear that no one wanted to see only part of the alley conveyed. The alley is 10 feet wide so conveying only half of the alley to 400 Highland Avenue is not something City staff would support. When staff looked at conveying half the alley to each property, it was determined there are public service lines that run down the center of the alley from Highland Avenue so a fence could not be constructed on top of the sanitary sewer lines. With that information, staff is recommending option C to deny the request.

Vice President Wiley stated the owner of 400 Highland Avenue was planning to install a fence for the safety of her family. In speaking of safety, he thinks it is more important for the police department to have access to the alley as well as for the tenant to have access to his mail and refuse service so he will vote to deny the

vacation.

Councilor Sullivan stated the owner indicated she wanted to put up a fence to prevent vehicles from cutting through the corner of her yard to make the turn into the alley which would make it a true 90 degree turn. Mr. Youmans stated Ms. Brown and her husband, as the owners, have every right to put in a fence up to eight feet high in the rear yard along the boundary line of their property. That would include the southeast corner of her property which would square off the access where today there is a very wide radius that has been established over the years.

Councilor Sullivan asked if the sanitary sewer lines would prevent her from building the fence. Mr. Youmans stated the sanitary sewer lines are in the public alleyway and would not prevent her from putting the fence along the southern boundary of the property.

Councilor Clark asked if fire trucks or police cars could make the turn if the fence is installed. Mr. Youmans stated Winchester Fire and Rescue Chief Baldwin indicated that they would not try to bring a piece of apparatus down the alley. The desire to keep it open was for police monitoring.

Councilor McInturff made a motion to deny O-2015-18. The motion was seconded by Vice President Wiley.

Ms. Freeman stated for a point of clarification, if Council votes to approve the ordinance, it would be denying it.

Councilor McInturff amended his motion to approve O-2015-18.

RESULT:	APPROVED TO FORWARD [UNANIMOUS]	Next: 12/8/2015 6:00 PM
MOVER:	Milt McInturff, Council Member	
SECONDER:	Bill Wiley, Council Vice President	
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley, Willingham	

3.7. Discussion Regarding Expanding City Code Section 14-64 Meter Zones Established

Ms. Freeman stated while there is not any new information to present, Council had asked for this item to come back for discussion. Council previously directed staff to put into place a resident only parking permit on the east side of North Kent Street in the 200 and 300 blocks. Upon further discussion, Council directed staff to rescind the decision on the 200 block on the east side as resident only parking so Council could have additional discussion and that is where it stands at this point.

Councilor Sullivan asked when the resident only hours apply. Samantha Anderson, Director of Parking, stated the hours are 7:00 a.m. to 7:00 p.m.,

Monday through Friday.

Vice President Wiley asked to confirm there would be seven spaces on the east side. Ms. Anderson stated there is one loading zone but it would fit six to seven meters.

Councilor Hill asked if whether or not the Parking Authority was proposing meters on the east side. Ms. Anderson confirmed they were proposing the meters for the east side. Councilor Hill stated he was not in favor of having meters on that side unless something can be done for parking in the rear of those properties. If that could be worked out, he would be in favor of it.

Vice President Wiley asked how many residential units were on the east side. Mr. Radosevich stated there were 11 units on the east side. Vice President Wiley suggested doing a split of four resident only parking spaces and three metered spaces. He stated the metered spaces could be closer to Piccadilly Street or the spaces could be staggered.

Councilor Sullivan stated the obvious advantage to a resident permit is you don't have to move your car. Ms. Freeman stated the current resident only parking is only enforceable between 7:00 a.m. and 7:00 p.m., Monday through Friday.

Councilor McKannan asked to confirm the west side was going to be metered. Ms. Freeman confirmed it will be.

Vice Mayor Veach asked what Mr. Baylor meant when he stated he is okay with how it is. Mr. Baylor stated his business caters to the middle class, people with lower incomes and seniors on fixed incomes. If his clients don't have to pay for parking, it gives them money for the laundromat or other things.

Vice Mayor Veach asked what happens when a citizen pulls up and parks without a resident only permit. Chief Sanzenbacher stated typically a resident will call and the citizen would be ticketed.

Vice Mayor Veach stated the permits do not make sense. He suggested the permits should be enforceable at night and not during the hours the residents should be at work.

Councilor Hill stated many of the residents do not work 9-5 jobs.

President Willingham stated there is one loading zone on the east side and asked if there is a handicapped space. Ms. Anderson stated there was not. President Willingham suggested there should be handicapped space on that side as well.

Mayor Minor stated she thinks the parking permits can be problematic. She also does not like meters in front of residences. She suggested leaving it like it is now.

Councilor McInturff asked if there have been any requests for a handicapped space in that section of Kent Street. Ms. Anderson stated that has not. Councilor McInturff stated at best Council will only be able to please 50% of the people. As a property owner, he thinks it is unconscionable that a landlord would have a piece of property that they expect to rent to someone and not supply parking for it.

Councilor McKannan stated you will be disparaging one shift or another with permitted parking and shift work. He agrees with Mayor Minor that it should be left how it is.

Councilor Clark stated the point on the handicapped parking is a good one but given the character and age of the facilities on the east side, none are handicapped accessible. The buildings on the west side are accessible and there is a handicapped spot. He is of the mind that if it is left as it is, the residents and business customers can use the spots.

Councilor Sullivan agreed it should be left as it is. The businesses get the loading zone, the City gets the meters on the west side and the residents get free parking on the east side.

President Willingham stated Mr. Radosevich mentioned a tenant with a special needs child and asked if that would qualify for a handicapped spot. Chief Sanzenbacher stated the resident would need to petition the police department to have it investigated to see if it is needed.

Ms. Freeman asked if it is the consensus of Council to leave the parking alone. President Willingham stated it is but he asked that staff be sensitive in the event that someone requests a handicapped space.

3.8.R-2015-43: Resolution to Set the 2016 Meeting Schedule for the Winchester Common Council

RESULT:	APPROVED TO FORWARD [UNANIMOUS]
MOVER:	Bill Wiley, Council Vice President
SECONDER:	Kevin McKannan, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley, Willingham

4. Adjournment

Vice President Wiley moved to adjourn the meeting at 8:34 p.m. The motion was seconded by Councilor McKannan.

The meeting was adjourned at 8:34 PM.

Kari J. Van Diest, CMC
Deputy Clerk of Council