

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
March 10, 2009**

A regular session of the Winchester Common Council was held on Tuesday, March 10, 2009 in the Council Chambers, Rouss City Hall. President Jeffrey Buettner called the meeting to order at 7:00 p.m.

PRESENT: President Jeff Buettner; Vice-Mayor Michael Butler; Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor (9)
ABSENT: None (0)

INVOCATION – Reverend Rich Reifsnnyder of First Presbyterian Church pronounced the invocation.

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

APPROVAL OF MINUTES – February 4, 2009 Special Meeting, February 10, 2009 Regular Meeting, February 12, 2009 Special Meeting, and February 17, 2009 Special Meeting.

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

REPORT OF PRESIDENT

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT CHAPTER 7 OF THE WINCHESTER CITY CODE PERTAINING TO ELECTIONS

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:03 p.m.

- Public Hearing: AN ORDINANCE AMENDING AND RE-ENACTING SECTION 5.1-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MUSEUMS AND ART GALLERIES IN THE LIMITED HIGH DENSITY RESIDENTIAL, HR-1 DISTRICT TA-08-15

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:03 p.m.

- Public Hearing: AN ORDINANCE AMENDING ARTICLE 20 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO PROCEDURES FOR FILING AN APPEAL TO THE BOARD OF ZONING APPEALS TA-08-14

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:03 p.m.

- Public Hearing: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 5, 7, 8, 9, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO INCENTIVES FOR LEED® CERTIFICATION TA-08-12

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:04 p.m.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 30 OF THE WINCHESTER CITY CODE PERTAINING TO THE TREE COMMISSION.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:04 p.m.

- Public Hearing: Request of Fort Loudoun Properties, Inc. for a conditional use permit for conversion of ground floor nonresidential use to residential use at 28-30 South Braddock Street (Map Number 193-1-C-8) zoned Central Business, B-1 District with Historic Winchester, HW District overlay. CU-08-19

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:04 p.m.

- Public Hearing: Renewal of Conditional Use Permit (CU-07-10) to operate a nightclub at Goodfellow's, LLC, located at 821 North Loudoun Street (Section 134, Double Circle 5, Lot 6), which is zoned Highway Commercial (B-2) District.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:04 p.m.

- Public Hearing: Renewal of Conditional Use Permit (CU-07-12) to allow continued operation of night club use at 560 North Cameron Street.

Aaron Lynch of 316 Pembridge Drive and manager of 560 North Cameron distributed a copy of the statement he made last week at the Planning and Development meeting and stated he wanted to reiterate the comments made. He also presented a signed contract with US Security Associates Incorporated for the upcoming shows and asked if anyone would like to see it. With the printed statement, he presented a map of where the security will be located in the establishment.

With no further citizens to address Council, the President closed the public hearing at 7:07 p.m.

- Ernie Ryles, member of the Celebrating Patsy Cline board, spoke in support of the ordinance pertaining to museums.

With no further citizens to address Council, the President closed the public hearings at 7:08 p.m.

REPORTS OF STANDING COMMITTEES

6-1 FINANCE AND ADMINISTRATION

Chairman Major presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT CHAPTER 7 OF THE WINCHESTER CITY CODE PERTAINING TO ELECTIONS.

The motion was 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>
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- Motion to approve a resolution requiring strict adherence to the salary ranges set forth for each position classification.

The motion was seconded by Vice-Mayor Butler than unanimously approved by voice-vote.

- Motion to appoint Erica Truban and Ken Reaves as members of the Budget Committee for a one year term ending March 31, 2010.

The motion was seconded by Councilor Clark then unanimously approved by voice-vote.

6-2 PLANNING AND DEVELOPMENT

Chairman Butler presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE AMENDING AND RE-ENACTING SECTION 5.1-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MUSEUMS AND ART GALLERIES IN THE LIMITED HIGH DENSITY RESIDENTIAL, HR-1 DISTRICT TA-08-15

The motion was 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>
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- Second Reading, by title, for adoption: AN ORDINANCE AMENDING ARTICLE 20 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO PROCEDURES FOR FILING AN APPEAL TO THE BOARD OF ZONING APPEALS TA-08-14

The motion was 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>
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Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- Second Reading, by title, for adoption: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 5, 7, 8, 9, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO INCENTIVES FOR LEED® CERTIFICATION TA-08-12

The motion was 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>
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- Motion to approve/deny/modify the Renewal of Conditional Use Permit to operate a nightclub at Goodfellow’s, LLC, located at 821 North Loudoun Street (Section 134, Double Circle 5, Lot 6), which is zoned Highway Commercial (B-2) District. CU-07-10

Councilor Clark moved to strike the words deny and modify from the motion. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Councilor Willingham seconded the main motion as amended.

Chairman Butler stated several departments have reviewed the activities of Goodfellow's in the city. Law enforcement has determined that not all of the cases are directly involved with the establishment and are out of their control. The main concern is the tardiness with the tax payments. There are also issues with ABC and site plan violations. An inspection conducted by the Fire Marshall this week found the establishment is still out of compliance with violations from this past summer. Ninety-five percent of the businesses in the city do not have a problem following the rules. He will be not support the motion.

Vice-President Major stated he supports what Vice-Mayor Butler said. If the establishment is not going to comply under scrutiny, how will they act under normal conditions?

The motion was defeated unanimously.

- Motion to approve the request of Fort Loudoun Properties, Inc. for a conditional use permit for conversion of ground floor nonresidential use to residential use at 28-30 South Braddock Street (Map Number 193-1-C-8) zoned Central Business, B-1 District with Historic Winchester, HW District overlay. CU-08-19

The motion was seconded by Vice-President Major then approved 8/1 with President Buettner voting in the negative.

- Motion to approve/deny/modify the Renewal of Conditional Use Permit to allow continued operation of night club use at 560 North Cameron Street. CU-07-12

Councilor Clark moved to strike the words deny and modify from the motion. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

The amended motion was seconded by Councilor Willingham then approved 8/0 with Vice-President Major abstaining.

6-3 PUBLIC SERVICES

Chairman Veach presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 30 OF THE WINCHESTER CITY CODE PERTAINING TO THE TREE COMMISSION.

Vice-President Art Major moved to table the ordinance. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

- Announce the term expiration of Robina Bouffault as a member of the Winchester Parking Authority and direct the Clerk of Council to advertise the vacancy. Ms. Bouffault is eligible for re-appointment.

6-4 COMMUNITY SAFETY AND SERVICES

Chairman Minor presented the following:

- Motion to authorize an application to the Office of Community Oriented Policing Services (COPS) Hiring Recovery Program for funding of positions.

Vice-Mayor Michael Butler seconded the motion.

Vice-President Major stated he will not be supporting this motion. In the current economic times, the proposal is attractive but the city will have to find the money to keep these people in three years. He understands there will be attrition but the city needs to be able to afford the positions on its own nickel.

Councilor Willingham stated he concurs with Vice-President Major's comments. The proposal will tie our hands in 3-4 years.

Vice-Mayor Butler stated he will be supporting the motion tonight. He understands the fiscal side but feels confident that in three years the city will be able to manager the individuals in the payroll.

Mayor Minor stated she agrees with Vice-Mayor Butler. She feels the city will be able to afford it in three years and can certainly use the officers.

Councilor McInturff stated that while serving on the Budget Committee and going through the pain of what they are going through, he is not comfortable supporting this not knowing what will happen three years from now.

Vice-President Major reiterated his decision is based on finances not the goal of public safety. He does not support the mechanism.

The motion passed 6/3 with Vice-President Art Major, Councilor Milt McInturff, and Councilor John Willingham voting in the negative.

6-5 HEALTH, EDUCATION AND WELFARE

Chairman Willingham presented the following:

- Motion to re-appoint Fran Orr as a member of the Social Services Advisory Board to a four year term ending March 31, 2013.

The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.

- Motion to re-appoint Jim Deskins as a member of the Lord Fairfax Community College Board to a four year term ending June 30, 2013.

The motion was seconded by Councilor Clark than unanimously approved by voice-vote.

- Announce the term expiration of Dr. Glenn Burdick as a member of the Lord Fairfax Community College Board and direct the Clerk of Council to advertise the vacancy. Dr. Burdick is not eligible for re-appointment.

NEW BUSINESS

- Report of the Mayor.

Mayor Minor stated on March, 11, 1748, George William Fairfax and young George Washington, together with several others left Belvoir for the Shenandoah Valley to complete some surveys for Lord Fairfax. Washington and Fairfax traveled about 40 miles and arrived at George Neavil's Ordinary around sunset where they spent the night. Then on March 16, 1748, George Washington's Diary entry stated "We set out early and finish'd about one o'clock and then Travell'd up to Frederick Town." So on this day, George Washington "Took a review" of the site of the town of Winchester for the first time, and spent his first night there in one of her Inns. This is truly a historic day that we are proud to commemorate annually.

Mayor Minor stated she is pleased to announce that East Lane is open. She traveled on East Lane this week and it is absolutely a much improved road! The sidewalks are very nice and make such a positive difference for pedestrian walkability!

Mayor Minor announced the Northeast Infrastructure Improvements Project is continuing its progress and the section of Woodstock Lane between East Street and East Lane is now closed. We appreciate our citizen's patience as this project continues.

Mayor Minor stated she was proud to represent the City at the Green Circle Groundbreaking ceremony last week. Work will begin at the Town Run/Jim Barnett Park/Shenandoah University Phase at Mt. Carmel Baptist Church. As many of you know, the City's Green Circle Trail has been developed to provide a readily available and safe network of pedestrian and bicycle trails around Winchester. Its primary benefit will be in providing a unique and safe opportunity for residents and visitors in Winchester to utilize a shared bicycle and pedestrian trail within the City.

Mayor Minor stated at the ceremony, a longtime supporter and advocate of the Green Circle, Jim Lawrence perhaps said it best, "He said, "You don't get a sense of community by driving through it. You get it by interacting with its people, places and things. The more you see, the more you know and the more you know the more you care and the more you care the more you get involved and that is what the Green Circle is all about. Bringing Our Community Together." She thanked everyone who had a part in the Green Circle Trail.

Mayor Minor stated she spoke the Natalie Wills of the Tourist Center who reported they will have more motor coach tours this spring than ever before. The tours are using Winchester as a destination point instead of traveling through. Mayor Minor thanked Natalie for everything she does and stated the Tourism board is doing a wonderful job.

- Mark Stivers, attorney representing the owners of Goodfellow's, stated he understood the public hearing and vote had already occurred in the meeting and apologized immensely for missing it. He then asked if there was anything that could be done. President Buettner stated the public hearing was held at 7:00 p.m. which is the posted time and the vote has been held so there is nothing that could be done at that time.

Mr. Stivers suggested something could be done if a councilor requested it. President Buettner gave each of the councilors an opportunity to make a motion to reconsider the issue. None of the councilors spoke.

ADJOURNMENT

Mayor Elizabeth Minor moved to adjourn the meeting at 7:38 p.m. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council