

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
September 8, 2009**

A regular session of the Winchester Common Council was held on Tuesday, September 8, 2009 in the Council Chambers, Rouss City Hall. President Jeffrey Buettner called the meeting to order at 6:59 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)

MOMENT OF SILENCE – President Buettner led Council and the citizens in a Moment of Silence.

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

APPROVAL OF MINUTES – Vice-President Major moved to approve the minutes of the August 11, 2009 regular meeting. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

REPORT OF PRESIDENT

- Motion to approve a resolution honoring W. Richard Fletcher, III.

Vice-President Major moved to approve the resolution honoring Mr. Fletcher. *The motion was seconded by Vice-Mayor Butler than unanimously approved by voice-vote.*

Vice-Mayor Butler presented the resolution to Mr. Fletcher.

- Public Hearing: AN ORDINANCE TO AUTHORIZE THE ALLOCATION OF FUNDS AND ACQUISITION OF A PORTION OF PROPERTY LOCATED AT 1675 SOUTH PLEASANT VALLEY ROAD IN FURTHERANCE OF THE SPRING STREET CONNECTION PROJECT

Clark Neff of 1467 Greystone Terrace stated he gave a letter to the City Manager, Mr. Noe, from 35 residents of Greystone Terrace expressing opposition to this motion. Some of the concerns are that the memo from Mr. Deskins contradicts the staff report from February by the Planning Department that says the traffic safety and traffic flow are not an issue for that area. Now, the Economic Developer has a memo stating traffic safety is an

issue. The residents would be interested in seeing the report information to backup the memo from the Economic Developer. He stated the residents ask that City Council or somebody in city government express a small amount of interest in their concerns for their neighborhood as they are in getting this development pushed through. They know the Spring Street connector did not exist until March. The memo stated it is a long sought relief for traffic congestion but they know it is a way to get the K-Mart access to facilitate the development for Mr. Donegan. The residents are not opposed to development or road improvements but they are opposed to the scope and size of Mr. Donegan's development. In 2000, the residents signed a letter stating they endorsed Mr. Shooks and Mr. White's development which was much smaller and Mr. Shooks was going to leave green space for the neighborhood. Mr. Donegan's plans will have a parking lot 50 feet away from his house. The residents asked that this be put off for further study and thought. They invited Council to look at their neighborhood and see how this will affect their homes and life investments. It is a neighborhood of school teachers and public servants. They are raising children on the street and would hate to see the city lose a good, middle class, nice neighborhood.

Mike Conavoy of 415 Millwood Avenue stated he has two issues with the memo and the reasoning to do this ordinance to condemn the property. One is the claim that it will improve the safety and the traffic flow on Millwood Avenue and then the connectivity issue. He lives at 415 Millwood Avenue and has owned the property for 25 years and has lived there for 15 years. He has done a lot of reading and study on traffic issues and has read the Traffic Impact Analysis and the State Building Codes. That connector will not improve the traffic flow on Millwood Avenue. It will take some traffic off on the right hand turn going in that would have normally turned 45 feet up the street. It will degrade the intersection. Any additional traffic that comes out of Spring Street onto Millwood Avenue will put more traffic into the functional area of the intersection so it will degrade the traffic flow on that street. As far as the connectivity goes, he does not see where the City of Winchester would want a public street through a development. Does the City want to maintain it and plow the snow? Do they want to do that for other developers? He understands this is a way to justify the ordinance to condemn some of the property and he honestly agrees it should be done. He does not think you need this mechanism. Because it is a public asset, a developer or property owner should have access to that public asset. He thinks from the aspects of transportation planning, you would want to combine entrances and do it at lights which is a reason to do it. He does not think the interconnection is necessary or should be pursued. His issue is to keep Spring Street connected to Greystone Terrace. The residents on the south side of Millwood Avenue use Spring Street to go back into town instead of doing a u-turn in the middle of the street or using the Goodwill parking lot to turn around in. The entrance and exit to Winchester Wheels is on Spring Street. They will have to come out and go around Pleasant Valley to go back into town. Any

development should consider not cul-de-sacking Greystone Terrace and keeping the connectivity of Spring Street to Greystone Terrace. If the principles of connectivity and helping the traffic flow are applied to severing Spring Street, they can be applied to keeping Spring Street connected to Greystone Terrace.

With no further citizens to address Council concerning this issue and the President declared the public hearing closed at 7:11 p.m.

- Public Hearing: AN ORDINANCE TO AMEND SECTION 18-1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CERTIFICATES OF OCCUPANCY FOR BUSINESSES AND HOME OCCUPATIONS TA-09-87

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:11 p.m.

- Public Hearing: AN ORDINANCE TO AUTHORIZE ADDITION TO THE FALL SUPPLEMENTAL APPROPRIATION AND ALLOW FOR INCREASED EXPENDITURE OF PREVIOUSLY ALLOCATED FUNDS FOR THE WINCHESTER DETOX CENTER

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:11 p.m.

- Public Hearing: Request of Stephanie Levenson on behalf of Sweet Caroline's of Winchester, LLC for a conditional use permit for nightclub use at 29 West Cork Street (Map Number 193-01-F-22) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. CU-09-147

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:11 p.m.

- Public Hearing: Request of Oakcrest Properties, LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 163-165 North Loudoun Street (Map Number 173-01-F-17) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. CU-09-151

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:12 p.m.

- Public Hearing: Request of Oak Hill Rental Properties, LLC for a conditional use permit for extended stay lodging at 2011 Valley Avenue (Map Number 251-01-6) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay. CU-09-150

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:12 p.m.

- Public Hearing: Motion to approve the 2008 U.S. Department of Housing and Urban Development Consolidated Annual Performance Evaluation Report. (CAPER)

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:12 p.m.

- Other Citizen Comments

Charles Alton of 103 South Washington Street spoke regarding the alleyway that is proposed to be closed between the back of his building and Braddock Street. There are two ways to get into the parking spaces behind his business and a number of other businesses. Council was given a letter at the last meeting signed by 24 people who work on Boscawen Street and park there during the day. It is fair to say the exit on Braddock is not the safest and it is fair to say the exit on Indian Alley is also not the safest. One of his neighbors had an accident on Indian Alley where somebody was coming down to fast so she swerved to miss them but hit a pole instead. Unfortunately, that alley does not have stop lights. On Braddock Street, there is a stop light on at Boscawen and at Cork. The alleyway is about $\frac{3}{4}$ of the way from one light and a little over a block from the other. That is not available on Indian Alley. Most of the people driving down Indian Alley are considerate but you do have some who move pretty quickly. It is dangerous for pedestrians and for those pulling out from behind his block on Boscawen. In the last month, he has had two close calls with people going to fast on Indian Alley. It is a difficult situation and there is not an ideal solution. A mirror has been installed on the exit and if the alley exiting on Braddock were to stay open, a mirror would be good there too. The alley exiting onto Braddock is narrower than the one on Indian Alley but it has the advantage of having a sidewalk as a buffer. If the alley were to stay open, he recommended eliminating at least one of the parking spaces next to the exit to improve visibility. He also suggested keeping it one way. If the alley is closed, it will make a dangerous situation more dangerous. You will have increased traffic on the other side especially while people are going to and from work. He has had to sit in Indian Alley twice during the past two weeks with his van sticking out into the alley. If this alley is closed, something should be done to the Indian Alley for traffic. His other concern is in the case of a fire, the exit to Braddock Street provides another way out for vehicles so the Fire Department can get closer to the location. The exit should be kept available as an emergency exit if needed. Neither alley is ideal but you have a better chance to judge the traffic because of the buffer and the traffic is slower on Braddock because of the traffic lights. It would be a smart decision not to close the alley

Judith Omslaer of 103 South Washington Street asked if all of Council has looked at the alley in question. She stated the biggest issue is it started with an error. It was never a public safety issue and even now is listed as a public utilities issue. There have not been accidents there and as far as she is aware there have been no complaints of property damage or injuries. The people who park and come out of that small alley are very aware they have to move slowly. As a rule and an observation, people are very, very careful coming out of there because of the sidewalk. Unfortunately, there is no sidewalk on Indian Alley so people come out right up to the curb. There is also no way to see around the corner because the buildings come right up to the property lines. She prefers to use this alley because she can see better coming out. The cars parked near the exit make ingress very difficult but she can see better coming out. This city has a lot of 18th and 19th century streets that were not built for fire trucks or SUVs. They were built when horse power was provided by horses. If you close every small alley, intersection and access road with poor visibility, you will have a very large walking mall. She understands this was started by a contractor error and then it was suggested it was a safety hazard but she has concerns about being in a cul-de-sac which are more dangerous by nature than through streets. She also has concerns about coming in because there are two buildings going out of Indian Alley. If one car is already there and can't back up, people are going to be stuck. Stop signs will help but you need to leave one space in and one space out. Since this closure was never petitioned to the city, you are going to have a parking space on city property that will be used by one of the property owners close by. It will certainly not go unused and if someone parks there you will no longer have a pedestrian/bicycle walkway. She asked Council to leave it open.

With no further citizens to address Council concerning this issue and the President declared the public hearing closed at 7:23 p.m.

REPORTS OF STANDING COMMITTEES

FINANCE AND ADMINISTRATION

Chairman Major presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AUTHORIZE ADDITION TO THE FALL SUPPLEMENTAL APPROPRIATION AND ALLOW FOR INCREASED EXPENDITURE OF PREVIOUSLY ALLOCATED FUNDS FOR THE WINCHESTER DETOX CENTER

Vice-Mayor Butler stated this has been discussed many times and a lot has happened over the summer. John Riley has been working with the center on the issues Council raised. There is a team effort working to solve those issues.

The other issue is the residential unit. Several on Council are opposed to it but it has served many people. It is also a location where probation officers and judges will send people instead of to the Detention Center which saves money for various programs. The team is working on billing the expenses to the other localities and to the clients. Detox has been there for 34 years. It started for a reason and has served this community with minimal problems. They have done what they were asked to do and have served this community well. The beginning of an ad hoc committee is being discussed to help them find funding and to give them breathing room. The bottom line is in the long run Starting Point will save us money by keeping people out of the Detention Center, by keeping the Police from processing people into the system, and by continuing to serve the citizens at the same time. He asked that Council grant the \$25,000.00 to the end of the year to help solve the problems.

Councilor Clark stated the group serves a lot of people in Winchester and the money saved saves a lot of money in other programs. He thinks cutting the funds from Starting Point is penny wise and pound foolish.

Mayor Minor stated that as unfortunate as it may be for the people who need it, it is a service we have provided for many years and it has been very helpful to many people. It is cost saving and she does plan to support it.

President Buettner stated he voted for the funding cuts and still feels the logic was sound. He also asked that Council revisit this based on conversations with Frederick County, the fiscal agent, and still thinks it was fair to give them the opportunity to address the concerns Council had. In his mind, when you look at the list of the people abusing the program, it would have been nice to be proactive instead of reactive on this issue but it is what it is. Hopefully with a policy in place, the same individuals will not be in there every three days. He understands the idea there is cost savings using the inebriate center versus using the judicial system. Certainly it is much less money to put someone into a residential program or into the inebriate center than it is to incarcerate them. He thinks Council needs to look at the social costs. He doesn't think there is a way to factor that but it is there. When he looked at the 10 names in the Winchester Star that had all been through Detox, a majority of them, if not all, had other criminal activity associated with their names. He had to ask himself if Council is fostering that activity by giving them a pass on the criminal activity. There is a social cost to having a large crime element downtown that is being facilitated through the inebriate center. Hopefully, their policy works to send a message that says we will not tolerate it. He is still not getting an answer regarding the residential program. The residential program allows people to stay for very little money for an indefinite amount of time on the tax payer dollar. The tax payers of Winchester, Frederick County and the other localities are subsidizing this. When asked, a message is sent that says Starting Point is self-sufficient and creates revenue to offset the other costs. However, when Council was cutting money to the inebriate center, we were

told that if they cut staff, they would have to shut down Starting Point because there wasn't enough funds to fund them. He is having a hard time reconciling that mixed message that it is self-sufficient yet dependant on tax payer dollars. He understands alcoholism is a disease and like any disease, you need help. However, he looks at other issues such as autism, cancer and any others out there that the City is not funding or subsidizing. He asked why the city is subsidizing this one. He has asked that we look at not having the residential program as it is now at Starting Point. He thinks it is a long term detriment to the City of Winchester; it is unfair to the tax payers of Winchester to subsidize Starting Point; and there are huge social costs associated with it. He knows resolutions are being worked on but it has been presented to him as either we fund them both or we don't fund either. To him they are two separate programs and should be addressed separately. He is frustrated that he can't get any answers on the residential side. He would like to work with Frederick County and try to resolve this. He does think there is a value to having an inebriate center with very strict constraints because it does save tax payer dollars when we can do it in a realistic fashion. He is not sure the way it has been handled up to now is fair but we did not ask questions when we should have either. He would like to be able to work through this but at the same time the Budget Committee recommended cutting the funding completely back in February or March. It seems Starting Point and Frederick County could have been more proactive back in February or March instead of now asking why you did that.

The motion was defeated 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	Nay
Councilor McInturff	Nay
Mayor Minor	Aye
Councilor Veach	Nay
Councilor Willingham	Nay
President Buettner	Nay

- Motion to adopt a resolution regarding contract with OTSS, LLC / North Cameron Properties, LLC, in which Councilor John Willingham has a personal interest.

Councilor Willingham recused himself from the discussion.

Mayor Minor moved to approve the resolution. *The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.*

PLANNING AND DEVELOPMENT

Chairman Butler presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AUTHORIZE THE ALLOCATION OF FUNDS AND ACQUISITION OF A PORTION OF PROPERTY LOCATED AT 1675 SOUTH PLEASANT VALLEY ROAD IN FURTHERANCE OF THE SPRING STREET CONNECTION PROJECT

Councilor Veach moved to amend the ordinance in paragraph 7 to read “is acquiring” instead of “has acquired” and in paragraph 9 to read “from” instead of “form.” *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

President Buettner moved to table the ordinance as amended and to send it back to the Planning & Development Committee for more discussion. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND SECTION 18-1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CERTIFICATES OF OCCUPANCY FOR BUSINESSES AND HOME OCCUPATIONS TA-09-87

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 request of Stephanie Levenson on behalf of Sweet Caroline’s of Winchester, LLC for a conditional use permit for nightclub use at 29 West Cork Street (Map Number 193-01-F-22) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. CU-09-147

Councilor Willingham moved to approve the Conditional Use Permit. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

- Motion to approve a request of Oakcrest Properties, LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 163-165 North Loudoun Street (Map Number 173-01-F-17) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. CU-09-151

Mayor Minor moved to approve the Conditional Use Permit. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

- Motion to approve a request of Oak Hill Rental Properties, LLC for a conditional use permit for extended stay lodging at 2011 Valley Avenue (Map Number 251-01-6) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay. CU-09-150

Mayor Minor moved to approve the Conditional Use Permit. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

- Motion to appoint David Spence as a member of the Old Town Development Board for an unexpired three year term ending October 31, 2010.

Councilor Willingham moved to approve the appointment of Mr. Spence. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

- Motion to re-appoint Dr. Marilyn E. Finnemore and David Smith as members of the Old Town Development Board for a three year term expiring October 31, 2012.

Councilor Willingham moved to approve the reappointments of Dr. Finnemore and Mr. Smith. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

PUBLIC SERVICES

Chairman Veach presented the following:

- Motion to approve the Winchester Tree Canopy Plan.

Vice-Mayor Butler moved to approve the Winchester Tree Canopy Plan. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

- Motion to approve a resolution regarding the Construction of the Proposed “PATH” 765-Kilovolt Transmission Line.

Councilor Clark moved to approve the resolution regarding the “PATH” Transmission Line. *The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.*

- Motion to approve a resolution authorizing alley access closure on Braddock Street.

Councilor McInturff moved to approve the resolution regarding the alley access on Braddock Street. The motion was seconded by Vice-Mayor Butler.

Mayor Minor stated she will be voting against the motion. She asked if the alley could be made a right turn only coming out onto Braddock Street to be safer. Mr. Eisenach stated it could be looked at.

Councilor McInturff asked if the parking spaces will be blocked off on each side of the alley for consideration of sight and how the telephone pole on the north side could be addressed. Mr. Eisenach stated he could not say definitely on the parking spaces but staff does need to take a close look to keep the cars from parking too close. He could talk to Allegheny Power about relocating the pole but it would be at the City’s expense.

President Buettner expressed his concern the alley is very narrow and comes out across a sidewalk. Staff is talking about putting stop signs on Indian Alley. He is concerned the alley will be dangerous with two way traffic on Braddock Street. He can go either way on the vote because the alley could be closed later if needed but he is very concerned about the safety issues for pedestrians and motorists.

The motion was unanimously defeated 0/9 with President Buettner; Vice-Mayor Butler; Councilor Clark, Hill, McInturff, Veach and Willingham; Vice-President Major; Mayor Minor voting in the negative.

COMMUNITY SAFETY AND SERVICES

Chairman Minor presented the following:

- Motion to approve a resolution recognizing Fire Prevention Week.

Councilor Willingham moved to approve the resolution for Fire Prevention Week. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

- Motion to approve a resolution recommending the Lord Fairfax EMS Council as a Designated Regional EMS Council.

Vice-Mayor Butler moved to approve the resolution for the Lord Fairfax EMS Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

HEALTH, EDUCATION AND WELFARE

Chairman Willingham presented the following:

- Motion to approve 2008 U.S. Department of Housing and Urban Development Consolidated Annual Performance Evaluation Report. (CAPER)

Vice-President Major moved to approve the 2008 CAPER. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

NEW BUSINESS

- Report of the Mayor.

Mayor Minor asked everyone to please look out for our students as they wait for school buses and walk to and from school. Be an integral part of your son or daughter's education – we need to engage ourselves and truly follow the city school's motto – "Learning for all – Whatever it takes!"

Mayor Minor stated the Downtown Utilities Infrastructure Improvement project is progressing well. The progress on the project during August has been dramatic and we are still on schedule to complete the work on Braddock and Cameron by October 24. On Braddock Street, crews are finishing the installation of the storm drain pipe between Amherst and Piccadilly which is the final component of the underground infrastructure on Braddock. On Cameron Street, all of the underground utility installation south of Cork has been completed. The base layer paving on Braddock Street is down. This is certainly a welcome sight by everyone and sign that we are getting closer to completion. We continue to thank all the citizens, business owners and the public who utilize these important roadways for their patience and cooperation.

Mayor Minor stated that throughout the year, but especially at this time when we remember the tragedy of September 11, 2001, keep our enlisted men and women in the Middle East and all over the world in your thoughts and prayers

ADJOURNMENT

Mayor Elizabeth Minor moved to adjourn the meeting at 7:58 p.m. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council