

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
September 9, 2008**

A regular session of the Winchester Common Council was held on Tuesday, September 9, 2008 in the Council Chambers, Rouss City Hall. President Charles Gaynor called the meeting to order at 6:59 p.m.

PRESENT: Vice-Mayor Jeff Buettner; Councilors Michael Butler, Evan Clark, Tim Coyne, Richard Helm, Art Major and Stewart Masters; President Charles Gaynor; Vice-President Carolyn Griffin; Mayor Elizabeth Minor. (10)

ABSENT: Councilor L.D. "Rick" Nelson. (1)

MOMENT OF SILENCE – President Gaynor asked for a Moment of Silence for everyone to remember the men and women serving our nation overseas and at home.

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

APPROVAL OF MINUTES – August 12, 2008 Regular Meeting

Councilor Coyne made a motion to approve the minutes of the August 12, 2008 Council meeting. *The motion was seconded by Councilor Masters and unanimously approved 10/0 with none voting in the negative. None abstained.*

MOTION TO APPROVE AN AMENDMENT TO THE AGENDA - Vice-President Griffin made a motion to approve the amendment to agenda. *The motion was seconded by Councilor Coyne and unanimously approved 10/0 with none voting in the negative. None abstained.*

REPORT OF PRESIDENT

- **Motion to approve a resolution honoring Clowe C. Nicholson.**

The motion was seconded by Councilor Butler and unanimously approved 10/0 with none voting in the negative. None abstained.

Mayor Minor read the resolution and presented it to Ms. Nicholson. The Mayor thanked Ms. Nicholson for her service to the city and wished her well in her retirement.

- **Public Hearing: AN ORDINANCE TO AMEND ARTICLE II OF CHAPTER 27 OF THE WINCHESTER CITY CODE, BY ENACTING A NEW DIVISION 5 ENTITLED, “PROPERTY EXEMPT FROM TAXATION BY DESIGNATION AND CLASSIFICATION” CONSISTING OF SECTION 27-31 “AUTHORIZED”, SECTION**

27-32 “EXEMPTION BY DESIGNATION”, SECTION 27-33 “EXEMPTION BY CLASSIFICATION”, SECTION 27-34 “EXEMPTIONS STRICTLY CONSTRUED”, SECTION 27-35 “VALIDITY OF PREVIOUSLY GRANTED EXEMPTIONS”, SECTION 27-36 “TRIENNIAL REVIEW OF EXEMPTIONS”, SECTION 27-37 “EFFECTIVE DATES.”

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:07 p.m.

- Public Hearing: AN ORDINANCE TO ACCEPT THE CONVEYANCE OF AN INTEREST IN APPROXIMATELY .6657 ACRES OF LAND ALSO KNOWN AS “SNYDER LANE” FROM TRUSTEES OF THE OPEQUON PRESBYTERIAN CHURCH AND AUTHORIZE THE CONVEYANCE OF SAID PROPERTY TO JOLEEN, L.C., A VIRGINIA LIMITED LIABILITY CORPORATION, IN FURTHERANCE OF DEVELOPMENT OF CREEKSIDE VILLAGE AND CREEKSIDE STATION

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:08 p.m.

- Public Hearing: AN ORDINANCE TO CONDITIONALLY REZONE AN 8.7 ACRE PORTION OF LAND FROM LOW DENSITY RESIDENTIAL, LR DISTRICT TO MEDIUM DENSITY RESIDENTIAL, MR DISTRICT AT 470 MERRIMANS LANE. RZ-08-08

Ron Mislowsky with Patton, Harris, and Rust stated he has worked out the proffers with the Planning Commission and the Planning and Development Committee has given their approval. He did not have anything more to offer tonight but could answer any questions Council may have.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:09 p.m.

- Public Hearing: AN ORDINANCE TO VACATE AND CONVEY TO WINCHESTER MEDICAL CENTER, INC APPROXIMATELY 640 SQUARE FEET OF RIGHT OF WAY IN THE VICINITY OF THE EAST ENTRANCE AT 1840 AMHERST STREET. SV-08-02

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:10 p.m.

- Public Hearing: AN ORDINANCE TO VACATE AND CONVEY TO C.H. SCHUTTE, INC. APPROXIMATELY 8.75 SQUARE FEET OF RIGHT OF WAY IN THE VICINITY OF 1000 VALLEY AVENUE SV-08-03

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:10 p.m.

- Public Hearing: AN ORDINANCE TO CONDITIONALLY REZONE 4.849 ACRES OF LAND AT 139, 143, 147, 151, 155, 159, 163, 167, 167½, 169, 171, 175 AND 179 LINDEN DRIVE, AND 0.581 ACRES OF LAND AT 227 LINDEN DRIVE, AND A 3.613 ACRE PORTION OF LAND AT 1830-1890 AMHERST STREET, ALL FROM LOW DENSITY RESIDENTIAL, LR DISTRICT TO MEDICAL CENTER, MC DISTRICT. RZ-08-07 - ITEM WAS POSTPONED AT THE AUGUST 12TH COUNCIL MEETING AT THE REQUEST OF THE APPLICANT

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 AMENDING ARTICLE 14.2 AND ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS IN THE CORRIDOR ENHANCEMENT (CE) AND MEDICAL CENTER (MC) DISTRICTS TA-08-06

David Nahm, the attorney for Winchester Medical Center, stated he was available to answer any questions Council may have during their deliberations.

No further 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 Briar Oak Investments III, LLC for revision of the Willows at Meadow Branch Development Plan per Section 13-4-5 of the Zoning Ordinance at 1881 Harvest Drive zoned High Density Residential, HR District with Planned Unit Development, PUD overlay. RZ-08-09

Steve Lemon stated he is an attorney from Roanoke and is affiliated with Briar Oak Investments III. He stated the Willows is proud to have provided quality care in a residential setting for seniors since 1998 and is excited about this prospect for expansion. We have worked closely with and are pleased to have the support of city staff, the Planning Commission, and the Planning and Development Committee of this council. As we have moved through this process, there have been two primary issues that have arisen. They have been both site plan issues. One is the drainage collection and the other is the preservation of trees on the site. He would like to assure this council that in regards to the drainage issue they have a private, vested legal right to use the drainage. However, the site plan process will address any mitigation issues that are required. We, of course, plan to be responsible citizens. This expansion will result in a 55% open space coverage ratio which is a full 10% above the legal minimum. With regard to the trees on the site, the Willows spend in excess of \$30,000.00 a year to maintain the lovely landscaping that we have at our facility. We are proud of that and certainly enjoy our trees. The trees on the site were planted in connection to the initial development in 1998 so they are not legacy trees. They date to the founding of the institution and we will be as careful as we

can in regards to them in the redevelopment process. Understanding that the residents who use this expanded area are memory care residents and in their protected area, there are some concerns about the type of vegetation that can be in there. We are available to answer any questions Council may have during deliberations and appreciate their consideration of this matter.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:15 p.m.

- Public Hearing: AN ORDINANCE AUTHORIZING AND ALLOCATING THE USE OF FUNDING FOR THE EMPLOYEE HOMEOWNERSHIP ASSISTANCE PROGRAM.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:15 p.m.

- Public Hearing: Motion to approve the 2007 Consolidated Annual Performance Evaluation Report

President Gaynor made a motion to approve the 2007 Consolidated Annual Performance Evaluation Report. *The motion was seconded by Councilor Coyne and unanimously approved 10/0 with none voting in the negative. None abstained.*

6. REPORTS OF STANDING COMMITTEES

6-1 FINANCE AND ADMINISTRATION

Chairman Buettner presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND ARTICLE II OF CHAPTER 27 OF THE WINCHESTER CITY CODE, BY ENACTING A NEW DIVISION 5 ENTITLED, "PROPERTY EXEMPT FROM TAXATION BY DESIGNATION AND CLASSIFICATION" CONSISTING OF SECTION 27-31 "AUTHORIZED", SECTION 27-32 "EXEMPTION BY DESIGNATION", SECTION 27-33 "EXEMPTION BY CLASSIFICATION", SECTION 27-34 "EXEMPTIONS STRICTLY CONSTRUED", SECTION 27-35 "VALIDITY OF PREVIOUSLY GRANTED EXEMPTIONS", SECTION 27-36 "TRIENNIAL REVIEW OF EXEMPTIONS", SECTION 27-37 "EFFECTIVE DATES."

The motion was approved 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 Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye

Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Absent
President Gaynor	Aye

- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ADOPT CHAPTER 5 OF THE WINCHESTER CITY CODE TO INCLUDE ARTICLE III SECTIONS 5-40, 5-41, 5-42, AND 5-43 CONCERNING MIGRATORY AND NONMIGRATORY WATERFOWL.

6-2 PLANNING AND DEVELOPMENT

Chairman Griffin presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO ACCEPT THE CONVEYANCE OF AN INTEREST IN APPROXIMATELY .6657 ACRES OF LAND ALSO KNOWN AS “SNYDER LANE” FROM TRUSTEES OF THE OPEQUON PRESBYTERIAN CHURCH AND AUTHORIZE THE CONVEYANCE OF SAID PROPERTY TO JOLEEN, L.C., A VIRGINIA LIMITED LIABILITY CORPORATION, IN FURTHERANCE OF DEVELOPMENT OF CREEKSIDE VILLAGE AND CREEKSIDE STATION

The motion was approved 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 Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Absent
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO CONDITIONALLY REZONE AN 8.7 ACRE PORTION OF LAND FROM LOW DENSITY

RESIDENTIAL, LR DISTRICT TO MEDIUM DENSITY RESIDENTIAL, MR DISTRICT AT 470 MERRIMANS LANE. RZ-08-08

The motion was approved 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 Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Absent
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE AMENDING ARTICLE 14.2 AND ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS IN THE CORRIDOR ENHANCEMENT (CE) AND MEDICAL CENTER (MC) DISTRICTS TA-08-06

Councilor Masters asked Zoning Administrator Vince Diem for clarification on if signage for profit making business like enterprises would have to adhere to the same rules and regulations as other businesses in the corridor or if it would be separate to medical signage. Mr. Diem stated the ordinance would apply to those signs and directional signs on the medical campus that relate to emergency or medical related facilities. It would also include health care or administrative facilities within the medical center campus. It has been his understanding from speaking with the applicant that it is not their intention to commercially advertise those other business entities within these types of signs. Therefore, those signs would otherwise be subject to the other signage standards in the district.

Councilor Clark stated his understanding is these signs are not required to be the monument type and are permitted to be on poles. Mr. Diem stated the only sign that would not be required to be a monument sign are those outside of the Corridor Enhancement District area. The Corridor Enhancement area only encompasses a band of property located adjacent to Amherst Street. The majority of the medical center property is located with just Medical Center zoning and is not inclusive of the Corridor Enhancement District.

The motion was approved 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 Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Nay
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Absent
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO CONDITIONALLY REZONE 4.849 ACRES OF LAND AT 139, 143, 147, 151, 155, 159, 163, 167, 167½, 169, 171, 175 AND 179 LINDEN DRIVE, AND 0.581 ACRES OF LAND AT 227 LINDEN DRIVE, AND A 3.613 ACRE PORTION OF LAND AT 1830-1890 AMHERST STREET, ALL FROM LOW DENSITY RESIDENTIAL, LR DISTRICT TO MEDICAL CENTER, MC DISTRICT. RZ-08-07

The motion was approved 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 Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Absent
President Gaynor	Aye

- Motion to appoint Frank Wright, Perry Eisenach, and Jim Deskins as in house-viewers for: AN ORDINANCE TO VACATE AND CONVEY TO WINCHESTER MEDICAL CENTER, INC APPROXIMATELY 640 SQUARE FEET OF RIGHT OF WAY IN THE VICINITY OF THE EAST ENTRANCE AT 1840 AMHERST STREET. SV-08-02

The motion was seconded by Councilor Major and unanimously approved 10/0 with none voting in the negative. None abstained.

- Motion to appoint Frank Wright, Perry Eisenach, and Jim Deskins as in house-viewers for: AN ORDINANCE TO VACATE AND CONVEY TO C.H. SCHUTTE, INC. APPROXIMATELY 8.75 SQUARE FEET OF RIGHT OF WAY IN THE VICINITY OF 1000 VALLEY AVENUE SV-08-03

The motion was seconded by Councilor Major and unanimously approved 10/0 with none voting in the negative. None abstained.

- Motion to approve the modification of a request of Briar Oak Investments III, LLC for revision of the Willows at Meadow Branch Development Plan per Section 13-4-5 of the Zoning Ordinance at 1881 Harvest Drive zoned High Density Residential, HR District with Planned Unit Development, PUD overlay. RZ-08-09

The motion was seconded by Councilor Major and unanimously approved 10/0 with none voting in the negative. None abstained.

- Announce the resignation of John Willingham as a member the Planning Commission effective December 31, 2008 and direct the Clerk of Council to advertise the vacancy.
- Motion to appoint J.P. Carr and Suzanne Conrad as members of the Economic Development Authority to a four year term expiring August 31, 2012.

The motion was seconded by Mayor Minor and unanimously approved 10/0 with none voting in the negative. None abstained.

6-3 PUBLIC SERVICES

Chairman Helm presented the following:

- First Reading, by title: AN ORDINANCE TO ACCEPT THE DONATION OF AND/OR AUTHORIZE THE PURCHASE OF AN EASEMENT ACROSS THE PRIVATELY OWNED LAND OF MT. CARMEL BAPTIST CHURCH, REBA M. BURBACH, AND ROBERT L. HARPER IN FURTHERANCE OF THE GREEN CIRCLE PROJECT.
- Motion to approve a resolution to amend the agreement with VDOT for the Green Circle Trail.

The motion was seconded by Councilor Coyne and unanimously approved 10/0 with none voting in the negative. None abstained.

- Motion to approve a resolution to reimburse expenditures with proceeds of a borrowing – Hope Drive Extension.

Chairman Helm stated this item will be moved to the September Finance Committee agenda.

- Motion to approve the proposed new location for the bus transfer station.

The motion was seconded by Vice-President Griffin and unanimously approved 10/0 with none voting in the negative. None abstained.

- Motion to appoint Brian Hester as a member of the Winchester Parking Authority to a five year term expiring May 31, 2013.

Chairman Helm stated this item is to be removed from the agenda.

6-4 COMMUNITY SAFETY

Chairman Butler presented the following:

- Motion to approve a resolution for National Child Passenger Safety Week.

The motion was seconded Councilor Helm and unanimously approved 10/0 with none voting in the negative. None abstained.

- Motion to approve a resolution for Fire Prevention Week.

The motion was seconded by Councilor Major and unanimously approved 10/0 with none voting in the negative. None abstained.

- Announce the term expirations of John White, William Sirbaugh, and Frank Wright as members of the Winchester Transportation Board expiring November 30, 2008, and direct the Clerk of Council to advertise the vacancy. Mr. White, Mr. Sirbaugh, and Mr. Wright are eligible for re-appointment.

Chairman Butler stated the Winchester Transportation Safety Board met last night for a reorganization meeting. The members were tasked with helping to redefine the mission and purpose of this board and what the goals will be. They will be meeting over the next few months to develop the new structure.

Chairman Butler announced on Saturday, September 13th, the city will conduct a full scale emergency response exercise at Frederick Douglas Elementary School from 9 a.m. to 12 p.m. The exercise will involve personnel, equipment and facilities from the public schools, Police, Fire and Rescue, Emergency Communications and Information, Emergency Management and the Winchester Medical Center. Preparations for the exercise are being completed and

the neighborhoods in which the exercise is to be conducted are to be notified this week prior to the exercise utilizing the City Watch Reverse Calling System.

6-5 HEALTH, EDUCATION AND WELFARE

Chairman Coyne presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE AUTHORIZING AND ALLOCATING THE USE OF FUNDING FOR THE EMPLOYEE HOMEOWNERSHIP ASSISTANCE PROGRAM.

The motion was approved 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 Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Absent
President Gaynor	Aye

- Motion to approve CSB Performance Contract.

The motion was seconded by Vice-President Griffin and unanimously approved 10/0 with none voting in the negative. None abstained.

- Motion to approve the 2007 Consolidated Annual Performance Evaluation Report.

This item was previously approved under the Report of the President.

- Announce the term expirations of Jim Riley, Sandra Armstrong, and Veerle Foreman as members of the Handley Library Board expiring November 30, 2008, and direct the Clerk of Council to advertise the vacancy. Mr. Riley, Ms. Armstrong, and Mrs. Foreman are eligible for re-appointment.
- Announce the resignation of Mary Lee Henderson and Christian Schweiger as members of the Social Services Advisory Board and direct the Clerk of Council to advertise the vacancy.

- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Mary Lee Henderson and Christian Schweiger as members of the Social Services Advisory Board.

The motion was seconded by Councilor Clark and unanimously approved 10/0 with none voting in the negative. None abstained.

Chairman Coyne announced the Regional Mental Health Task Force held its initial meeting and has another meeting scheduled for October 1st in the board room in Our Health. All of the representatives have been appointed. We had a good first meeting and are on track to continue those discussions.

7. NEW BUSINESS

- Report of the Mayor.

Mayor Minor stated she would like to remind everyone that as the schools are opened in the city and in the county, we need to please look out for the children waiting for the buses and walking to and from school. She also asked that everyone be an integral part of the son or daughter's education. She stated we need to truly engage ourselves and follow our city's motto of "Learning for all – Whatever it takes!"

Mayor Minor stated everyone is excited about this month's opening of South Loudoun Street. The Ribbon Cutting will be held on the 18th. In addition, the Northeast Infrastructure Project started last week with Phase One on Cork Street. Cork Street will be closed one block at a time as the work moves towards East Lane. We would like to thank all of the citizens, business owners and the public who utilize these roadways for their patience and cooperation. It will be well worth it when it is all finished.

Mayor Minor reported that she talked to Tourism Director Natalie Wills and there were 1,900 visitors come through this month. She feels this is very commendable with the new Welcome Center open that we still had that many people come through our Visitor's Center.

Councilor Clark stated he attended the Volunteers in Policing dinner tonight before the meeting and wanted to take a moment to thank William Griffith and all of the Volunteers in Policing for all of the wonderful service they provide to the city. They have saved us a lot of money and support our policemen who do need our support.

After a brief discussion, President Gaynor rescheduled the September Work Session meeting to Tuesday, September 30th, at 5:30 p.m.

ADJOURNMENT

Vice-President Griffin made a motion to adjourn at 7:45 p.m. The motion was seconded by Councilor Clark and unanimously approved 10/0 with none voting in the negative. None abstained.

Kari J. Van Diest
Deputy Clerk of the Common Council