

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
October 1, 2013
City Council Chambers – Rouss City Hall**

DRAFT

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

ABSENT: Councilor Jeff Buettner (1)

1.0 Call to Order – President Willingham called the meeting to order at 6:00 p.m.

2.0 Public Comments: (Each person will be allowed 3 minutes to address Council with a maximum of 10 minutes allowed for everyone)

Laurie Bridgeforth of 601 Jefferson Street thanked Council for their efforts last month in tabling the issue of the communications tower and answering questions they and the public asked to fill in the background. She stated she does have a few additional questions and comments for Council's consideration before they vote. The background information on page 5 of the agenda packet mentions a Council work session on June 19, 2012, where Council had discussions relating to the tower and a discussion that would permit the City Manager to enter into discussions with the Handley Trust relating to the acquisition of land. She asked what the results were of that discussion with the Handley Trust as it is not mentioned anywhere else in the history of this issue. She asked if they said no or mentioned any specific concerns about a fall zone at any time. She also asked why she and her husband, Scott, were not contacted as adjoining landowners directly at that same time by staff, Council or contractor. She asked if it was because the exact position of the tower had not been decided yet. She asked if anyone could explain why the exact position of the tower and its fall zone was not made public until the Council meeting of August 27, 2013, over a year later. She stated in addition, she would like to reiterate a portion of her email sent to Council last week on this topic where she would like to repeat Council's own ordinance and rule, Section 18-2-1.2, "any new tower is separated from property lines in a residential district by not less than the height of the tower." She stated the existing land is zoned appropriate as EIP but the City still does not have 237 feet separation from her land which is zoned residential. Based on Council's own rules, Jefferson Street is not an appropriate place for this tower. She asked Council to please vote no on placing the tower in her neighborhood.

Paul Lewis of 633 Tennyson stated in reviewing the documents for this meeting, Mr. Kiefer from Kimball & Associates stated there was a tremendous amount of time and work put into this on their behalf and he had not seen any comments or

objections to change his assessment. That may be from Mr. Kiefer's stand point but he would invite Mr. Kiefer to stroll down Tennyson Avenue or up Selton Drive or down Jefferson Street and knock on a few doors to see what the residents' assessment of the tower would be. He stated on September 16th, Teltronic's notes indicate they looked for other sites and found none and determined a 250 foot tower was needed to gain the proper 95/95. It turned out the tower will be 237 feet tall and on relatively high ground situated near the center of the city. The Shentel tower on Fairmont is not high enough and is too far north. He stated this is Winchester, Virginia, not the middle of Manhattan. If he is being told that with today's technology moving the tower from Jefferson to Fairmont, for example, won't work, he would submit that this is not the proper technology to do this. He stated in the Emergency Management Q&A documents, it says two public notices were sent to adjacent landowners which makes it sound like several people were notified but it was only a total of 3. Lastly, the notes in the Q&A document indicate the balloon test was not ordered and not required by the City nor did they take into consideration any of the cultural studies done by CRI or the Photo Shop documents. He asked why the City paid for them and how much did they pay for them. He stated it is clear the City is going to need a waiver come January 1st anyway so he urged Council to look at other options but also some residents said they emailed questions but did not receive a response either.

Rick Till, Human Resources Director for O'Sullivan Films and resident of 404 South Washington Street, stated at the last Council meeting, Mr. Buettner asked that a resolution to memorialize O'Sullivan's concerns related to the Jubal Square project be developed by staff. Mr. Iman and Mr. Youmans approached O'Sullivan to receive their comments regarding the resolution. He stated the draft resolution in the agenda packet that will be discussed later really doesn't completely reflect O'Sullivan's concerns with the setback concern actually becoming more confusing in the resolution. He stated they will pursue a Zoning Determination letter as suggested by Mr. Willingham through the Zoning office. He distributed a draft resolution from O'Sullivan and asked that Council consider it as they look at their concerns. He stated O'Sullivan has been engaged in this issue for over 5 months investing time and money. They have had the opportunity to reflect on the process internally within their organization and the real problem from their perspective is they feel like they have been taken for granted or worse that the City doesn't care about the other concerns they have expressed.

Scott Bridgeforth of 601 Jefferson Street stated at the last meeting, he talked about the homeowners' commitment to the area specifically the millions of dollars spent to beautify the city. The quiet enjoyment is all the citizens have asked for in return. He asked everyone to step back to the third grade and put on their imaginary caps to go into the future specifically to the economic impact of this area. He and his wife have spoken to MSV and to the School about this potential site and about their residential piece that may come to fruition. He is talking about \$50 million. He is talking about an overall beautification investment in this area. He stated the question comes how a 217 foot tower fits in this environment. It simply does not.

He asked Council to please consider other areas as well as other options for this tower of terror.

Dana Hand Evans, Executive Director of the Museum of the Shenandoah Valley at 901 Amherst Street, stated she was asked by the museum trustees and the board to again express their concern for the potential impact of this tower on their property and its intrinsic value to the community with it their 24 month study and heavy investment into their master plan which would open their property to the community more than it already is. She asked that Council be sure they have exhausted all possibilities for the location of this tower before situating it next to a school and next to their campus.

President Willingham stated that concludes the public comments and Council will now move on to the regular work session agenda.

3.0 Items for Discussion:

3.1 Update on Communications Tower

Emergency Management Coordinator Lynn Miller presented a summary from the propagation study done at the Winchester Medical Center. He stated the suggestion would be a 450 foot tower but it might require a license with the FAA due to a helicopter pad and the FCC due to interference with other localities. There are a lot of unknowns with this possibility that could delay this longer than the expected 385 days. He stated the Jefferson Street site has been discussed as a possibility since it is already a public safety site.

Shag Kiefer of Kimball and Associates stated their responsibility was to come up with a preliminary design to establish what the budget would be. Unfortunately, only the site at Jefferson Street has the geographic positioning to provide excellent coverage compared to every other site. Kimball leaves it to the vendor to propose the actual system design because they have to guarantee the performance. Kimball gives the vendor the resources to work with and the vendor designs what will work with those resources. In this case, Motorola and Kimball concurred on the Jefferson Street site. To change that design really will require a lot more budget which was the major constraint they had. He stated they did look at other sites and for anything that had any hope of working preliminary tests were done but nothing came anywhere close to being affordable or having the coverage.

Vice-Mayor Veach asked if the property to the north had been considered. Mr. Kiefer stated the property was considered but the decision was made to move it to the City property. The other site required a 250 foot tower.

Vice-Mayor Veach asked if approval was given there and if it can still be used. Mr. Miller stated it can be used but it will change the height of the tower

because of the topography. The land use would have to be worked out with the Handley Trust. There would be other costs for the service road and fencing.

Vice-Mayor Veach stated he would like to consider the Handley Trust site again.

President Willingham asked what the restraints to the project were and why was Jefferson Street the only response. He asked if cost was the largest constraint. Mr. Kiefer stated when they started writing the RFP, Kimball was in the opinion that multiple sites would be needed because they didn't think they could get a large enough tower at Jefferson Street. Council wanted to see 4 options with the RFP. Motorola picked option D with the criteria of option A.

Mr. Miller stated staff is committed to put in a communications system that is state of the art for the community within the stipulations that Council has aligned. Staff's charge was to stay in the budget and in the design.

Mr. Miller reviewed the timeline for this project beginning in 2007 although the initial discussions started in 2005/06.

President Willingham asked for an explanation on the requirements to notify adjacent property owners for a Conditional Use Permit. Zoning and Inspections Director Aaron Grisdale stated the Zoning Ordinance is stricter in the City than in State Code. The Winchester Zoning Ordinance requires all property within 300 feet be notified. In this case, that was only 3 properties. There are also notifications in the Winchester Star that are required to appear twice.

President Willingham asked if the City goes back to RFP and resubmits, would anything different be received. Mr. Kiefer stated not from a technical standpoint. If Council wants to go with another design, they should take advantage of their contract and look at other designs.

President Willingham asked if multiple sites could be done with \$3.5 million. Mr. Kiefer stated no. Even with multiple sites, the Jefferson Street site would still need to be used.

Councilor Tagnesi asked if there are any legal ramifications since the City already has a contract. City Attorney Anthony Williams stated no except for the \$600,000 already spent.

3.2 R-2013-48: Resolution – Approval to opt out of the VRS Virginia Local Disability Program coverage and elect to provide a comparable employer paid disability program effective January 1, 2014

Interim Human Resources Director Steve Corbit stated the Virginia Local Disability Program was created in 2012 by the General Assembly. It covers employees who are not able to work and provides short term and long term

disability coverage. This program will begin January 1, 2014 and would cover new employees or rehires. The current employees can make a contribution in to it. Staff looked at the open market and compared 3 quotes to the VRS option. VACoRP offered the best pricing on the open market with a 3 year price guarantee compared to VRS with a 6 month price guarantee and a higher percentage rate. The staff recommendation is to approve the resolution to opt out of the VRS VLDP and to go with VaCoRP.

Vice-Mayor Veach moved to forward R-2013-48 to Council. *The motion was seconded by Vice-President McInturff than approved 8/o.*

3.3 O-2013-33: AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 26-15 OF THE WINCHESTER CITY CODE PERTAINING TO THE TIME REQUIRED AND RESPONSIBILITIES RELATED TO REMOVAL OF SNOW AND ICE FROM SIDEWALKS (*Adjusts the time allotted and clarifies responsibilities for snow and ice removal from the sidewalks*)

Utilities Director Perry Eisenach stated the current City Code states a person has 2 hours after snow stops falling to clear off the sidewalks. Staff does not think that is reasonable for citizens working and for Public Services to clear the City sidewalks. The recommendation is to change the time allowed to 24 hours for 6 inches or less of snow and 48 hours for more than 6 inches of snow. He stated the other recommended changes are the property owner or person responsible for maintaining the property is responsible for the snow removal instead of the property owner or tenant and the Zoning department would be responsible for enforcement instead of the Police department.

Councilor Clark moved to forward O-2013-33 to Council. *The motion was seconded by Mayor Minor then approved 8/o.*

3.4 R-2013-49: Resolution – Authorize the application for an allocation of \$4,850,000 through the Virginia Department of Transportation Revenue Sharing Program

See the following item

3.5 R-2013-50: Resolution – Authorize the request to the Commonwealth Transportation Board to transfer \$700,000 of state Revenue Sharing funds to the National/Piccadilly/East Lane Realignment Project

Utilities Director Perry Eisenach stated items 3.5 and 3.4 on the agenda are related. The applications for new Revenue Sharing funds are due November 1st. In order to meet the goal of completing construction on the realignment of National Avenue, he met with VDOT to work out a plan to use Revenue Sharing funds. The adoption of R-2013-50 would request the transfer of \$700,000 from the Hope Drive project to the National Avenue project. He stated the second application (R-2013-49) is for new projects in the city. The projects include the extension of Tevis Street over the interstate, replacement of the

\$700,000 for the Hope Drive extension project, synchronization of traffic signals with VDOT's system on Jubal Early/Pleasant Valley, and completion of street paving in the city.

Vice-President McInturff moved to forward R-2013-50 to Council. *The motion was seconded by Vice-Mayor Veach then approved 8/0.*

Vice-President McInturff moved to forward R-2013-49 to Council. *The motion was seconded by Councilor Weber then approved 8/0.*

- 3.6 R-2013-51:** Resolution: Authorize the request to the Commonwealth Transportation Board to establish a "Safe Routes to School" project consisting of constructing sidewalks on Wentworth Drive between Cedarmeade Avenue and Valley Avenue

Utilities Director Perry Eisenach stated the deadline to make application with the Virginia Department of Transportation is November 1st. He is recommending the City make two applications for funding at 80% Federal and 20% local match. The two projects would be the 3rd phase of the Green Circle Trail on Valley Avenue going west and the sidewalks on Wentworth Drive between Cedarmeade and Valley Avenues.

Mayor Minor moved to forward R-2013-51 to Council. *The motion was seconded by Vice-Mayor Veach then approved 8/0.*

Vice-President McInturff moved to forward R-2013-52 to Council. *The motion was seconded by Councilor Tagnesi then approved 8/0.*

- 3.7 R-2013-52:** Resolution: Authorize the request to the Commonwealth Transportation Board to establish a Transportation Alternatives project consisting of the Green Circle Trail – Phase III

See the previous item.

- 3.8 R-2013-53:** Resolution – Authorize the consolidation of the Community Development Committee's functions into a revised committee with concurrent membership with the Winchester Economic Development Authority

Assistant City Manager Doug Hewett presented the resolution to shrink the composition of the Community Development Committee to the same size as the Economic Development Authority. The EDA has looked at this and thinks it is a great idea. This would consolidate the CDC and EDA into concurrent boards.

Councilor Clark expressed his concern regarding a conflict of interest between the two boards. Mr. Hewett stated he does not think there is a conflict. The EDA sees their role as beneficial to the goal of the CDC.

Mayor Minor moved to forward R-2013 53 to Council. *The motion was seconded by Councilor Tagnesi than approved 7/1 with Councilor Clark voting in the negative.*

3.9 O-2013-34: AN ORDINANCE TO AMEND THE WINCHESTER CITY CODE, CHAPTER 30. VEGETATION, TO ALLOW FOR THE CREATION OF THE ENVIRONMENTAL SUSTAINABILITY TASKFORCE

Assistant City Manager Doug Hewett presented the ordinance to replace the Tree Commission and the Natural Resources Advisory Board with a new committee of the Environmental Sustainability Taskforce. This committee would take on the functions described in Chapter 30 of City Code and those of the NRAB. He presented a list of activities as examples of what this new committee might be tasked with.

Councilor Weber suggested adding a component that would bring in Handley High School and solar components.

President Willingham stated he likes it but would like to see some economic development components added to it. He would also like to see quarterly reports on the activities being performed.

Mayor Minor moved to forward O-2013-34 to Council. *The motion was seconded by Vice-President McInturff then approved 7/1 with Vice-Mayor Veach voting in the negative.*

3.10 O-2013-35: AN ORDINANCE TO REZONE 0.46 ACRES OF LAND AT 317 SOUTH CAMERON STREET (*Map Number 193-01-K-14*) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY (former jail property)

Planning Director Tim Youmans presented the request of the EDA to rezone the former jail property as a residential property. He stated there is a potential developer but this needs to stand on its one. The property is in Parking District A which is 100% exempt from off street parking requirements.

Vice-President McInturff moved to forward O-2013-35 to Council. *The motion was seconded by Councilor Weber then approved 8/0.*

3.11 R-2013-54: Resolution – Clarification on Council’s intent as it pertains the continued operation and growth of the adjoining O’Sullivan industrial facility in light of the recent Jubal Square PUD rezoning

Planning Director Tim Youmans stated following the affirmative vote on an ordinance approving the rezoning at Jubal Square, Council asked staff to draft a resolution in response to O’Sullivan Films concerns. This is a non-binding

resolution for future Councils. He made the suggestion to Mr. Till that the Zoning Director could provide a determination of the current setbacks.

City Attorney Anthony Williams stated what Council would be adopting would not be binding but what Mr. Till would get from the Zoning Administrator would be binding to future Zoning Administrators.

Vice-Mayor Veach moved to forward R-2013-54 to Council. *The motion was seconded by Councilor Hill then approved 8/0.*

4.0 Liaison Reports

Vice-President McInturff stated he attended the first Parks Board meeting with the new Parks Director Jenny Jones. Ms. Jones has some new ideas that she is moving forward with and she was warmly accepted by the board.

Mayor Minor gave kudos to Tim Youmans for the wonderful production of the Murder Mystery at City Hall. She stated the event was well attended and she has been hearing some great comments about it from those who attended.

5.0 Monthly Reports

5.1 Fire Department

6.0 Adjourn

Councilor Clark moved to adjourn the meeting at 8:03 p.m. *The motion was seconded by Vice-President McInturff then approved 8/0.*

