

**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
July 13, 2010**

A regular session of the Winchester Common Council was held on Tuesday, July 13, 2010 in the Council Chambers, Rouss City Hall. President Jeff 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 and Les Veach; Mayor Elizabeth Minor (7)  
**ABSENT:** Vice-President Art Major; Councilor John Willingham (2)

**MOMENT OF SILENCE** – President Buettner led the members of Council and the citizens in a moment of silence.

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

**APPROVAL OF MINUTES** – May 25, 2010 Work Session and June 8, 2010 Regular Meeting, and June 29, 2010 Special Meeting.

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

**REPORT OF THE MAYOR**

Mayor Minor announced that the Winchester Police Department is proud to coordinate National Night Out. This year's events will be held on August 3 beginning 6 p.m. Contact the Police Department for more information and locations. Nation Night Out is designed to:

- 1) Heighten crime prevention awareness;
- 2) Generate support for, and participation in, local anticrime programs;
- 3) Strengthen neighborhood spirit and police-community partnerships; and
- 4) Send a message to criminals letting them know that neighborhoods are organized and fighting back.

Along with the traditional outside lights and front porch vigils, most cities and towns now celebrate National Night Out with a variety of special citywide and neighborhood events such as block parties, cookouts, parades, festivals, visits from local law enforcement, safety fairs, and youth events.

Mayor Minor stated if you have ever had an interest in City government, the INSIGHT Citizen's Academy is for you. INSIGHT provides area residents an opportunity to discover their City government through interactive, hands-on experience and to gain exposure to the wide range of government services, programs, functions and challenges. You do not have to be a city resident to participate. You can contact Rouss City Hall for information on the next session that begins on August 12<sup>th</sup>.

Mayor Minor stated the Winchester Parks and Recreation Department is proud to announce the completion of the (9) hole disc golf course in Jim Barnett Park. The course was designed to challenge all levels of play and was funded by volunteers and local businesses and organizations. It is available to play for FREE and discs are available for rent at the War Memorial Building or the Outdoor Pool Complex in Jim Barnett Park. Come out and experience disc golf for yourself. It's a very inexpensive, family-friendly sport that anyone can play.

### **REPORT OF THE CITY MANAGER**

City Manager Jim O'Connor stated he did not have anything unless Council had questions for him.

### **REPORT OF THE CITY ATTORNEY**

City Attorney Anthony Williams stated he did not have a report.

### **PUBLIC HEARINGS**

**O-2010-22:** Second Reading - AN ORDINANCE TO CONDITIONALLY REZONE AN APPROXIMATELY 0.068 ACRE PORTION OF LAND AT 414 NORTH LOUDOUN STREET (*Map Number 173-01-L-7*) FROM HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY. The Comprehensive Plan calls for high density residential and light industrial uses in the area. RZ-10-178

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:05 p.m.*

Councilor Veach moved to adopt O-2010-22. *The motion was seconded by Councilor Clark then 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	Absent
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Absent
President Buettner	Aye

**CU-10-255:** Conditional Use Permit – Request of Scott Rosenfeld for non-residential parking in a front yard at 825 Whittier Avenue and 812 Amherst Street

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:06 p.m.*

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

#### **PUBLIC COMMENTS**

Todd Golding of Kinzel Drive respectfully asked Council not to exempt Winchester from the free hours of handicapped parking for those that display the license plate or placard. He is personally against this proposal because he feels it goes against the spirit of the American with Disabilities Act by placing an additional monetary barrier on those who already face substantial monetary barriers already while they try to integrate into society. By keeping the parking regulations the same, we, as a city, are saying that we wish to eliminate as many barriers as we can. We are also saying they are an important part of our society and we want them to be participatory citizens. He recognizes that many able bodied citizens do not think about what life would be like with a disability. A lot of times our disabled citizens face many obstacles with equipment and the space they may need for mobility purposes. There are also medical issues with the medicines they may need. A lot of times, these citizens are on a very limited income. With that, he asked that Council reconsider the idea of exempting Winchester from this policy. He also requested that Council amend Section 14-69c and d from City Code to include those vehicles that display a Disabled Veterans license plate issued by the Commonwealth of Virginia as well as those already included in those sections such as the Purple Heart and POW designations. The Commonwealth of Virginia recognizes and honors the service of those catastrophically disabled veterans by issuing them these plates free of charge. Not to take away from our military but the Commonwealth of Virginia charges for the Purple Heart and POW license plates. In order to qualify for a Disabled Veteran license plate, an individual must be certified as 100% permanently and totally disabled by the US Department of Veterans Affairs. To show how rare these individuals are, out of Virginia's population of 7.9 million there are only 7,358 citizens according to the Virginia Department of Veteran Services that qualify for this designation by the Commonwealth. Out of those, approximately 5,300 take advantage of those plates. These individuals should be honored and he asked that if the City of Winchester is going

to exempt the Purple Hearts and Prisoners of War from paying parking fees he also thinks it would be wise to allow the Disabled Veterans the same exemption. 7:07:41 PM

David Look of Jefferson Street stated he is a retired historical architect and engineer with 4 decades of experience with the National Park Service and 15 years of experience with the Discovery Museum. He is both pro park and pro Discovery Museum. He retired as Chief of Cultural Resources for the Pacific West region with 56 parks in 7 states and 3 territories and the only Discovery Museum in a national park. The Bay Area Discovery Museum is having its 10<sup>th</sup> anniversary. They are in two rehabilitated World War II buildings. They did not build in the park. He thought it was great that the Discovery Museum was going to be in the park here until he saw the site. It is a much different situation here. In San Francisco, the Golden Gate National Recreation Area has 75,500 acres in 3 counties with over 750 historical buildings and another 500 unclassified buildings. Because of base closure, they had at any one time 500-1000 empty buildings in the 1990's that they were not allowed to tear down. They went out to the community and the non-profit organizations and filled those buildings. The Discovery Museum was one of their best tenants. However, the vacancies here are in the city not in the park. The real estate values are much different here than in the Bay area where the values are extremely high and there are no vacancies. He is an architect and he loves buildings. He thinks the design that the architect has done is very innovative and a terrific design. He has nothing against it but it could be built elsewhere. In visiting the site, he was totally impressed with it not only being only remaining open green space in Jim Barnett Park but it is the most beautiful. It is a site that should never be built on by anyone including Winchester Parks and Recreation. Last night, he had the experience of a gorgeous sunset on that site.

Donald Finley of Valley Avenue stated he represented the City of Winchester as a councilor for 6 years on issues such as this. One thing he learned during that time was when you have an issue this divisive he thinks the people who are representing the citizens need to take a look at the decisions that were made. During his time on Council, he was told he looked at things very humanistically and voted for what the people wanted. He is hoping Council will take a very hard look at in making your decisions. But more than anything, he looks at this situation very personally. He had a very personal relationship with Mr. Barnett. Mr. Barnett taught him a lot of things in the late 60's and early 70's as far as his character and his qualities and doing things for the people. He thinks about that now. It is a little about the green space but it is more about Mr. Barnett's principles and the principles of Denny Lee. He looks at the times he sat with Mr. Barnett in his office and learned from him. It meant a lot to him to have someone sit and teach him as a 15 year old laborer. He is hoping it is something that Council will take a real hard look at because to him it is personal. It is not about politics, the building, the money, or the finances. To him it is more personal. He thinks about what Mr. Barnett and Denny Lee would want and he feels very strongly that they would not want to have Discovery Museum put on that property. This is not a mandate against the Discovery Museum. He thinks it is wonderful and it is something that is needed but there are more places you can put the Discovery Museum than in Jim Barnett Park.

Larry Johnson of Parkins Mill Road stated he served on the board from 1980-86 when it was a policy board. They made a lot of decisions that did not even come to Council. The Discovery Museum is a great idea but Jim Barnett Park is sacred ground. Please do not disturb it anymore than it already has been. To the south, it has been taken over from the rescue squad to Shenandoah College. Enough is enough people. Please let our park stand.

Kate Simpson of 1747 Handley Avenue stated the Save Our Park group formed to protect Jim Barnett Park not to interfere or undermine the Discovery Museum's efforts. We are not proud of the ratio of park space to citizens – 1 acre to every 150 people. It is one of the worst ratios in the state and unacceptable for our fine community. We are devastated at the thought of more lost park land. It is not clear how much money the Discovery Museum actually has but it is obviously less than necessary even with City funds given over the past years and quite a bit of fundraising. This may jeopardize the completion of the building or operation over time. In contrast to this scenario and what Mayor Minor mentioned, a disc golf course opened in the park just recently from volunteers raising the \$6000.00 needed and collecting 400 signatures. That is the true spirit of our recreational area. The citizens joined together under the leadership of a local resident to accomplish a goal with no added cost to the city or the park both of which have already experienced severe budget cuts. The Save Our Park group's mission is to protect park land and encourage Council to complete the Green Circle and extend pocket parks for all Winchester citizens. Certainly those that support the Discovery Museum's mission agree that all residents deserve access to green space in our All-American Community. Equally, the over 500 citizens who have signed this Save Our Park petitions agree the Discovery Museum has been and will continue to be an asset in Winchester. We also want to support their exciting efforts. While citizens have collided on the location, with the help of Winchester's City Council, all of us have a chance to forge a new and harmonious direction for the future. Thank you for listening to the Winchester citizens who want to save our park.

Scott Dyke of 429 North Braddock Street stated he has been a resident of the city since 1968 and grew up in Frederick County. At the last Work Session meeting, one of the councilors spoke at some considerable length of time about the worthiness of the Discovery Museum and similar things and the importance to the communities and many other things for more than three minutes. The councilor discussed other towns such as Roanoke, Lynchburg and Charlottesville and their wonderful museums and everything. Afterward, Mr. Dyke was concerned that he is objecting to something but maybe he doesn't know what he is talking about. The last two weeks, he has spent quite a bit of time doing research. The City of Lynchburg has a population of 68,000 has over 800 acres of parks, 1 acre for every 85 people. They have been acquiring property all the way through. They have many wonderful museums that are educational and historical but they are all downtown as part of their revitalization. Roanoke has a population of approximately 95,000 has 10 miles of greenway in the city and over 60 parks with 1750 acres of parks in the city limits, 1 acre for every 54 people. They have 18 locations that are 10-100 acres and 3 locations with over 100 acres. None of the parks have a museum like we are proposing. The museums are downtown in their revitalized position. The

City of Charlottesville must have just required another 90 acres because a couple of months ago, they listed 987 acres in the city limits but as of last week 1183, 1 acre for every 35 citizens. They have 25 parks and one of the most beautiful downtown malls he has seen where their Discovery Museum is located. All of these say their mission is for open air public access to land and recreational facilities. Staunton has a population of 23,853 with 8 parks and 373 acres, 1 acre for every 64 people. One park is 214 acres and another is 148 acres. They have museums, educational facilities, children's educational museums, and an art museum that are all downtown. The city has worked very hard on that. Harrisonburg has 11 parks with 396 acres. They are in the process of trying to acquire more land. They are one of the highest with 1 acre for every 108 people but we are still 50% higher. They have 5 art galleries on Main Street downtown. They have the Virginia Quilt Museum on Main Street downtown. There are two other private art galleries there also downtown. The Harrisonburg Fire Museum is on Main Street downtown. The Civil War Orientation Museum is downtown. The Heritage Museum is one block over on High Street in Harrisonburg. The City of Winchester has 170 acres for approximately 26,000 people, 1 acre for every 153 people. In the history of that park from its inception, we have been giving chunks of that property away continually to other private entities. Here in 2010, we want to give away the most prime piece of real estate out there, the most open, versatile part. What he learned by looking at the other cities brought up at the work session is they have continually been acquiring parks for their citizens and developed their downtown areas to keep the museums within walking distances and parking services. They are not giving anything away. They are providing more. 7:21:33 PM

Sue Barnett of 1611 Valley Avenue thanked everyone for their interest. She knows this has been so tough and hard. It is good we live in this community where people talk, get along, and work their differences out. She is very thankful that she and her husband, David, moved back here when they did to raise their children here. Having said all of that, she does not think it is a prudent thing to do to any entity in the park, even a non-profit. It is not the place to put another building, not on that site. That is the last piece of prime open green space. Last night, she had the opportunity to see the gorgeous sunset from there. She asked that Council think twice about giving park space away because once it is given away, we can't get it back.

David Barnett of 1611 Valley Avenue stated he is Jim's oldest son. He felt compelled to come tonight to say a few words. We moved to Winchester in 1957 when his dad took the job as Recreation Director with a heavenly vision. A vision that he would develop the park to not only be the best city park in Virginia but one of the best in the United States of America. He thought about what his dad would want and it would be to support the Discovery Museum but not in the park. He always told him that one day the park would be taken over by the development of buildings either by Shenandoah College or other organizations. He told him that one day as they walked out of the armory but he also said that would not happen on his watch and it didn't. He also echoed those same thoughts to Denny who took over the reins for him. Mr. Barnett asked the Council to rethink this decision and choose what is best for the park and the City of Winchester. He

only hopes that if Council chooses not to locate the museum in the park, his dad would look down on him and say "well done my son."

Donald Smallwood of 222 Molden Avenue stated he would love to see an aerial photo photograph of what the Winchester Park looked like before I-81 and Shenandoah College and what it looks like today and what it can turn in to. He is 81 years old and spent 60 some years working with the park not as an employee but as a volunteer. He spent 8 years on this Council as committee chairman of the Parks and Recreation Department. He served for 6 years as the president of the Parks and Recreation. He can remember back when one of the first Recreation Directors was a fellow named Hugh Henry. Mr. Henry had a little office over the top of Miller's Drugstore. Hugh was succeeded by Charley Aiken then Jim Barnett came in 1957. Some where up there tonight, if you can feel a warm breath on the back of your neck, is Jim Barnett and he is organizing a meeting. He had the good fortune to go to work out of high school with Snag Sergeant. The park was just an idea then but Snag was able to talk us into organizing a group to dig all the post holes for the first softball diamond that was ever in the park. He lived in the east end of town where there was no park to play in. They had a football field where the Post Office is and played football in Larry Omps' father's vacant lot next to his house. They played baseball where ever they could. Those are the kinds of things he grew up with. He loves the park and would not trade it for anything. He hopes that Council will feel that Jim is looking down on them and will vote to take care of this in the rightful way.

Linda Ross of 529 Jefferson Street stated she grew up in Winchester and moved back here after a 16 year stint in Dallas, Texas. She is very proud to live here in this town. It is a beautiful community. It is an All-American Community. One thing she is very proud of is our park and the people who live here. She thinks we should all work together for the end use of the Discovery Museum and for what we believe in. She truly believes we can have it both ways. We have a wonderful opportunity here. We have a great park. She has friends that come from out of town and when they do she will often take them to the park. She will never take it for granted. She does not want to look backward tonight. This is 2010 and it is important to look forward. She wants to represent the people she has talked to over the last 6 weeks in doing research. Statistically, there are many people in this town who are less fortunate and don't have the means to go to a Stonebrook or a Country Club. They just want to play their radios loud and can't do so at home or because they don't have a backyard. She thinks the park land is set aside for those people and she would be proud to see that happen. She asked that Council remember that and remember the Discovery Museum because they have options. Everyone here wants to help them with that option.

Bob Grove of 324 Branner Circle stated the question before us tonight is whether or not public park land should be give to a special interest group. Of course the Discovery Museum would welcome a gift of a \$1 million building site but so would every other special interest group. Because the Discovery Museum failed to keep their sweetheart

lease contract in force, that contract is null and void. This is great news for the citizens and taxpayers of Winchester. This allows the current City Council a real opportunity to correct a terrible wrong. The non-profits and special interest groups deserved everyone's individual and private support if you are so inclined but they are not entitled to public funds and public lands. As Winchester builds out and the population increases and there is no more land available, the need for green space will become even more acute. Shenandoah University's growth will mean a higher use of park facilities. Hopefully, that growth will occur on the east side of I-81 since they are landlocked on the west, north and south. He hopes the city does not get into a fight over park land with them. At the last City Council session, Mr. Butler stated that a petition signed by hundreds of people expressing a desire to keep our park land for the exclusive use of parks and recreation didn't matter. Can you believe over 300 citizens didn't matter? At the same work session, two councilors voted for the Discovery Museum lease resolution because the previous council voted for it and they felt they should support the previous council. Right or wrong, they would support the previous council whether it is or is not in the best interest of their constituents. Two wrongs do not make a right. In his opinion, the Discovery Museum has grossly exaggerated the desirability of the building they wish to build. The green features of this building are good but in a couple of years with the national move towards energy independence most buildings will be built that way or better. The so called state of the art design they so highly tout looks like a shanty town to him. He would like to know if the City of Winchester would own this building should the Discovery Museum come defunct. This might happen given their inept record of spending over a million dollars for design on a site they don't own and the annual budget that Council continued donations from the city tax payers every year. With this very real possibility, what would the City do with such a special use building. The fact that the Discovery Museum has taken it upon themselves to spend a large amount of money on plans and testing should not be an issue for your consideration as you vote tonight. Most of the plans will still be usable on their next site. This park land site is not unique from a geological or topographical point of view. However, it is very, very unique from a recreational park point of view because it is our last green space. He urged City Council not to lease the land to the Discovery Museum. He urged City Council to vote in the best interest of the citizens of Winchester and save the park.

Maggie Lee of 317 Fairview Avenue stated although she has a great regard for the Discovery Museum, she is against it going in the park. The reason she decided to speak is because she lives in Ward 2 and both her council reps are voting opposite on this issue. As a constituent, this greatly confuses her. If the councilors represent the voters, who are they talking to. Since the North Ward's vote is basically being cancelled out, she decided to do her own poll with her neighbors and friends that live in the North Ward along with her. She is speaking for herself and everyone had different reasons but she kept hearing the same four words over and over again – not in the park. They love the museum and think it is great but not in the park. She is here to urge both her Ward 2 representatives as well as the rest of Council and Mayor Minor to vote with the constituents on this issue and to vote against the Discovery Museum going in the park.

Pete Lowe of 233 Jefferson Street stated the Discovery Museum issue has turned into a very emotional debate and points on both sides are very compelling. We all have our point of view. At times, we have tunnel vision and refuse to consider the opposition's point of view. The Discovery Museum slid under the radar of most citizens of Winchester the first time that it passed. We were not paying attention. He doubts that many citizens went to the park to look at that spot where the building is going to be built. He doubts if anyone in this group went over there to look. He didn't go see it until someone took him and said this is where it's going to be. Five hundred citizens right now have signed the petition that they don't want that building in that spot. They are not against that building. They are against the spot. He takes his grandkids to the Discovery Museum and they love it but he does not want to take them to that spot. His complaint centers around the amount of money the City of Winchester has had to spend in the last several years and will have to spend in the future if John Kerr is renovated. Traffic signals, Handley, Daniel Morgan and utility upgrades have cost the City almost \$129,000,000.00 and they had to be done. This comes at a time when revenues for the City have dropped from \$69,000,000.00 in 2007 to \$63,000,000.00 in 2009. That is getting close to a 9% drop in revenue for the City. The City has had to cut services and trim staff. True or not, there is a figure out there that says over the 40 year lease for the museum, it could cost the citizens of Winchester another \$8,000,000.00. That will be for mowing grass, shoveling snow, using the new building without charge and many more items. If the museum is truly a viable operation, it should be able to cover its own costs without the citizens having to pay for it. Would the museum be able to build there if it were not given a lease based on \$1.5 million dollars that the land is supposedly worth? In lieu of the above, it does not seem right to put more money in the budget for the citizens of Winchester to have to come up with for a non-profit organization. We are going to fit the bill for a lot of this even if \$8 million is a stretch. If Council passes this resolution, it will have to decide where to raise taxes because money has to come from somewhere. Will it be real estate tax? Will it be business licenses? Is it going to be machine tax? Is it going to be sales tax? More money will need to come from somewhere. Notwithstanding any of the above, he would be willing to bet there would be more people in Winchester, if we could vote on this and he realizes they can't, he would put is money on green space instead of a building. Since his letter in the Star, many people have phoned and stopped him to thank him for the letter. They said it expresses exactly how they felt. The part that is hard for his side of the isle to believe is there is only one place in the City of Winchester to build a museum. He has been told the museum has been offered a couple of other locations in the park. They could use either one of those locations as a great compromise. It's a win-win. They get park land and the citizens get the grassy knoll.

Nick Nerangis of 500 Pegasus Court stated he is a county resident and operates several businesses in the city so he has an interest. He thanked Council for bringing this issue to the floor tonight. This is an emotional evening and several things concern him. He is concerned that if the placement of the Discovery Museum in the park is denied after years of written promises and verbal extension agreements, the trust we place in City Council will be diminished for some time. He is concerned that threats of violence are being made to city council members that are serious enough to be viable by our police

department. Any debate on the placement should be civil and not accusatory. He applauds the tone of all the speakers of the opposition tonight. However, a truth remains that members of the Board of Directors for the Discovery Museum have also received very hostile messages delivered through phone and email. We are considering a place that will make a significant improvement in our standard of living and tax revenue base. The Discovery Museum will draw visitors to our community to will spend tourism dollars which we all know required no service dollars by our government. The best kinds of dollars to bring into a city are tourism dollars. That is why we have the Shenandoah Valley Apple Blossom Festival. The land required and committed to is two tenths of 1% of the park. Those two tenths of 1% now is beautiful but one of the least used properties in the park which would become the most unique and attractive area for children and adults alike. The Discovery Museum has the possibility of igniting a renewed interest to our young in science, math, history and physics to mention a few of the areas of learning. It is not called the Discovery Museum facetiously. Council has given their word. The museum board acted on that and spent and raised by pledges very large amounts of money based on that promise by Council. He would fear that reneging on that word at this time could be mean death now for the museum and for trust by businesses in future dealings with Council. Leave 99.8% of Jim Barnett Park in its current beautiful state. Use the other two tenths of 1% to create a more livable, educational, tax paying entity to benefit the whole community now and to the future.

Tom Oliver of 932 Breckenridge Lane stated he is a former Parks and Recreation Board member and past president to the Winchester Parks Foundation. He was on the Park Board in early 2004 when this project was first presented to us. At that time, the Park Board saw the Discovery Museum as a brilliant vision. We saw a great opportunities to our park and our citizens. Since then, the Discovery Museum has done an exceptional job. They raised nearly \$9 million in only 6 years. This is exactly what Winchester has asked the park to do. Our parks have had to fund themselves as best they can with civil volunteerism and many great projects built in our park over the years largely with the work of volunteers such as Mr. Christiansen and others named earlier. As past president of the Parks Foundation, his biggest concern tonight is the grave message it would send to other volunteer groups of what happens when the City and Parks Board change their mind. This is a group that is very dynamic, very enthusiastic, child oriented, and with a proven record of successful operations. We saw a great deal of opportunity available to us. It would be a brand project in our park. Terminating the partnership with the Discovery Museum now after they have raised \$9 million for a site specific project without consideration to the effort they have made would indeed cast a cloud on any future efforts to volunteer groups assisting the park in the future for fund raising in particular.

J.J. Smith of 549 Merrimans Lane stated he is a current board member for the Shenandoah Valley Discovery Museum and has been involved in the Steering Committee for the capital campaign for this project for over 4 years. Many opponents for the proposed site have suggested other sites including the Museum of the Shenandoah Valley and vacant stores both downtown and in various shopping centers around the area. There are several major problems with each of these suggested sites not the least of which is

none of them have been offered as contributions to our museum. The most important problem is these sites are not what are benefactors have contributed money for. What the opponents do not seem to understand is that we simply cannot spend \$5 million from our private contributors any way we wish. Our benefactors shared the vision of the museum in the park and each and every one of them is entitled to demand that their money be refunded if the museum cannot be built in the location that was told to them. Since the museum has already invested over \$1.5 million in the project in the park, it does not have sufficient funds to repay its benefactors. What our City Council must understand is to vote no to allow construction of the Discovery Museum in the planned location maybe the same as to put the Discovery Museum out of business. No children's museum in the park, downtown, or anywhere else. Many say the museum did not do what it promised and the lease has lapsed. While technically that may be true, as any prudent business partner would do, the museum has kept the City apprised of its progress on this project and each point along with way has been told that the City is committed. In fact, over \$2 million of our funding has been pledged since the City Council verbally indicated that there was no need to renew the lease until the museum is ready to begin construction. All of that funding will be lost if we cannot start construction at the current site by April 1, 2011. Many do not think that the failure of the City to renew the land lease is bad faith but the museum and its contributors have put its faith in the City to lease this land. Recently, he personally increased his pledge to \$1.5 million dollars. Do you think he would have done so without the City's ongoing commitment? He would like each of you and the opponents of this project to think about that to date he has personally contributed \$500,000.00 to this project and at least \$100,000.00 of his own money has been spent on the architectural and engineering costs so far. How many of you would think it not bad faith if it were your \$100,000.00 which thought was going to be an investment in the betterment of our community and was simply wasted? What would you do the next time the City sends Russ Potts to ask you to invest in something like the Handley renovation project? Would you agree to contribute \$80,000.00 which is what he did? He is not sure he would. What about all the other excellent non-profits that you are asking private contributors to put money out so the City tax money doesn't have to go to? Please stand up to the commitment the City made to this museum.

Mark Stickley of 324 West Whitlock Avenue stated he is a big fan of the Discovery Museum. He has small children and has gone there quite a bit. He also loves the park and has spent a lot of time there. He was at the park on the 3<sup>rd</sup> of July and the park was packed with people in this green space, the picnic shelters, the pool, and the ball fields. He is not sure how well he would have been able to get around the park if there had been more traffic from the Discovery Museum. He realizes the 4<sup>th</sup> of July may be a distortion of the parks use but back in the winter during one of the snow storms that hillside and green space was packed with people sledding. He would hate to lose that for the kids. The point that the area is not used is not true. There are a lot of people up there. When he drives or runs through the park, he sees a lot of people in all areas of the park. He was like many people that got blind sided in 2004 when the deal went through. It was maybe his fault for not paying attention and not knowing if there was an opportunity to speak against it. It was his fault for missing it then and he didn't want to miss it now. We are back and the lease is expired. He feels this land is too valuable to give it up at any price.

He thinks about the numbers again and this will be public property funded by public dollars to some extent to pay for the upkeep or for the museum if it were to go under. The museum is a real asset to the community regardless. He thinks about the numbers of 80,000-125,000 visitors per year we have heard about and the tourism money that would be fantastic but he is not sure how that was derived. As a private industry, he understands that but the public has not been allowed to access to the business plan to see where this is coming from. If it is 80,000 to 125,000, he has got to say that park is going to be overloaded. If it is less than that, it probably is not going to make it. Either way, it does not look like a good situation in his mind. He would hate to be stuck with a building on the last, nice green piece of land that is there. He would love to be able to see the museum go somewhere else. He doesn't feel the tax paying public should be forced to pick up the tab for many of the expenses on a part that a lot of people do use.

Phil Glaize 801 South Washington Street stated he is the chairman of the board of the Discovery Museum. He noticed that 80% of the people opposing the site in the park voiced their support for the Discovery Museum. Thank you. The Board of Directors for the Shenandoah Valley Discovery Museum thanks City Council for its past support and looks forward to mutually beneficial collaboration in the future. Beginning in 1995, the Winchester community embraced the Discovery Museum and helped foster its growth through the years. As demand for the museum services increased, Council embraced the vision of allowing its children's museum to locate in the city park. Regretfully, the last four months have seen this effort to build a bigger and better museum polarize this community. Ultimately, the Discovery Museum needs to be a place all of Winchester wants to visit and be proud of. The last two months have made it obvious that not all of Winchester wants this museum to locate in Jim Barnett Park. The Discovery Museum remains sensitive to this. To that end, despite of spending a large sum of money on design and site work on the Maple Street property, the Board of the Discovery Museum continues to keep an open mind regarding other potential sites. However, everything comes with a price tag and its own list of pros and cons. Of the alternative sites considered in the last four months, none have been less expensive nor suited the museum's mission better than Maple Drive. For these reasons, the Discovery Museum Board has continued to favor the site on Maple Drive. Should the resolution be approved tonight, the Shenandoah Valley Discovery Museum looks forward to developing a new lease and MOU that supports what the park needs and does not burden the city financially. If the resolution is defeated, the museum must be diligent to try to raise the money needed to locate on another site and also to keep its current donors and support. He can only hope this community will galvanize to support a renewed fund raising effort if this be the case. In such a scenario, it could be the museum itself that brings this community back together. Thank you for the time invested in this issue and your leadership to keep the mission of the Shenandoah Valley Discovery Museum alive in Winchester. 8:01:29 PM

Philip Pate of 453 Braddock Street stated it was not his intention to speak tonight. He has not taken a public stand on the Discovery Museum since he was on this council in 2004 and 2005. However, certain things were said again tonight that he thinks are

categorically wrong and need to be denied. It is still said that there was a commitment from the City. The City can make commitments in two ways either Council can act or you can sign a contract. There are no verbal commitments that can bind the City. The Code of the State of Virginia says that any business transacted by a Council must come before a vote. There were three votes taken. A resolution that never addressed the Discovery Museum merely addressed the park. An MOU and the lease that we already know are null and void. If anybody is going to suggest there is a commitment made, a verbal agreement that binds the City, he would like them to say who made it, what did they promise, when did they promise, and what is it obligating the City to do because we have not heard that. He thinks the initial commitment was done before that is void. The previous Council made its decisions on conditions in 2004 and 2005. If there is no commitment on the City's part this time, he thinks it is the obligation of the Council to make a decision based on the conditions in 2010. Mr. Glaize was very nice in recognizing and thanking the opposition for their recognizing the worth of the Discovery Museum. What we have not heard tonight are the proponents of the Discovery Museum in any way recognizing the validity of the position of their opponents. He hopes Council will at least recognize the validity of this position and the dedication of these people to maintaining a vital piece of Winchester.

Ruth Barnett of Frederick County stated she wanted to thank the citizens of Winchester many years ago for having the foresight to establish a park. It has meant so much to so many people and it still does. She appreciates greatly that it was named for Jim because he wanted his legacy continued. Every community strives to have a park. That is why we have Central Park, Boston Commons, and almost every little community in New England has a green space. The park still serves a valuable function. She knows people that go there just to have solitude. It has been mentioned tonight the number of people that go there just to watch sunsets. It is still striving to serve a purpose and it should stay intact.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:09 p.m.*

**CONSENT AGENDA (motion required to forward for Second Reading)**

**O-2010-25:** First Reading – AN ORDINANCE TO GRANT FRANCHISE TO USE PUBLIC PROPERTY FOR THE PROVISION OF ELECTRIC SERVICE TO THE CITY OF WINCHESTER

**O-2010-26:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-130 AND DELETE SECTION 27-131 OF THE WINCHESTER CITY CODE PERTAINING TO PROBATE TAX AND FEE FOR LIST OF HEIRS

**O-2010-27:** First Reading – AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2010

**O-2010-28:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT ARTICLE X SECTIONS 2-219 AND 2-220 OF THE WINCHESTER CITY CODE REGARDING THE INDUSTRIAL DEVELOPMENT AUTHORITY

**O-2010-29:** First Reading – AN ORDINANCE TO AMEND ARTICLE 6 OF THE WINCHESTER ZONING ORDINANCE TO ADD RESTAURANTS AS USES PERMITTED WITH A CONDITIONAL USE PERMIT WITHIN THE RESIDENTIAL OFFICE (RO-1) DISTRICT

**O-2010-30:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT AN ORDINANCE FOR SPOT BLIGHT ABATEMENT FOR THE PROPERTY KNOWN AS 119-129 NORTH LOUDOUN STREET IN ACCORDANCE WITH SECTION 6-133 OF THE WINCHESTER CITY CODE AND § 36-49.1:1 OF THE CODE OF VIRGINIA (1950), AS AMENDED SBA-09-01 (Taylor Hotel)

**O-2010-34:** First Reading – AN ORDINANCE TO ADD, AMEND, AND RE-ENACT SECTION 14-69 OF THE WINCHESTER CITY CODE PERTAINING TO THE DEPOSIT OF COIN REQUIRED; OVERTIME PARKING

**O-2010-35:** First Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-64 OF THE WINCHESTER CITY CODE PERTAINING TO METER ZONES ESTABLISHED

Councilor McInturff moved to forward the Consent Agenda items forward for a second reading. *The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.*

## **NEW BUSINESS**

**R-2010-36:** Resolution – Authorize franchise process for land previously under lease for Discovery Museum at Jim Barnett Park

Councilor McInturff stated while the City supports the Discovery Museum efforts and appreciates their enthusiasm and contributions towards the project, the previously proposed location is no longer agreeable. He moved to amend the resolution to add a 5<sup>th</sup> paragraph and amend the last two paragraphs to read paragraph 5 “*Whereas, Common Council no longer considers the originally proposed location for the Discover Museum encompassing approximately 3.5 acres in Jim Barnett Park to be appropriate and feasible for use by the Shenandoah Valley Discovery Museum and does not intend to re-initiate a franchise or lease concerning this particular property*”. Paragraph 9 reads “*the applicable provisions of the Virginia Franchise Act require that the lease of public property be procured through the adoption of an Ordinance and bidding process after due Notice and Public Hearing.*” Paragraph 10 reads “*the President of Common Council shall forthwith appoint an ad hoc committee to work with members of the Shenandoah Valley Discovery Museum to identify a potential alternative site and in the future make a recommendation to Council in the event that a mutually agreeable alternative location is*

*found to exist upon public property in the City of Winchester in order that the City may initiate the franchise process in accordance with the requirements of the applicable provisions of the Code of Virginia.”* The motion was seconded by Councilor Veach.

President Buettner stated to clarify what the amendment says is that the 3.5 acres that is the current proposed site on the top of the hill would be excluded from any future franchise. This leaves open working with the Shenandoah Valley Discovery Museum to find an alternative site within the park or within the city to be used for the purpose of building the Discovery Museum.

*The amendment passed unanimously by voice-vote.*

Councilor Clark stated he supports both the Discovery Museum and the green space in Jim Barnett Park. These are two of the wonderful assets we have in Winchester. He hopes everyone with work with Council to support both of these groups. In 2004, he thinks Council made a bad land use decision. He does not think it is ever a good idea to give away park land to a non-profit organization. The reason is there are a million non-profit organizations that have really valid, wonderful causes that they would like to champion and support. He can think of 5 right now who are in the process of building buildings and need land. They would love to have an acre or 3.5 acres in the park but we can't give away the park piece by piece or nothing will be left. He thinks the dollar lease essentially amounts to a give away. It is not sustainable in the economy the way it is today. He does not think it is a good economical decision for the City, for the park, or for anybody. In the future, he would like to see a transparent process in the way that we govern and do dealings with non-profit agencies and with the public at large. He feels that did not happen in 2004 for what ever reason. It did not happen in 2007 – 2009 time frame when verbal commitments were made. That is not an appropriate way to do business period and he does not think it should be supported. As Dr. Pate pointed out, governments business must be voted on in open session or a contract must be written and made public. That is the only way for a government to business period. That being said, he will support this new resolution as it is amended because he wants to work with the Discovery Museum to make sure they have a home in Winchester, Virginia not somewhere else. He does think the Board for the Discovery Museum is a smart group of people who have a great cause. They are smart enough to have an open mind about other sites. He hopes everyone, especially those with the park signs, will get a dollar out and support the museum. He will support the amended resolution not on top of the hill.

Mayor Minor stated she knows all of the councilors have agonized over this. She cannot think of a more controversial issue that has come before Council the whole time she has served. She has not received any phone calls or emails from anyone that is opposed to the Discovery Museum. Everyone she has spoken with thinks it is an asset to our community for our children and our families alike. It is the decision as to where to place the Discovery Museum that has our community going in two entirely different directions. Instead of a win-lose, she feels that in the long run this resolution will bring about a win-win for our entire community.

**Vice-President Major arrived at 8:17 p.m.**

President Buettner stated he understands where Councilor Clark is coming from but he does take exception to the accusation of non-transparency through this process. From 2004 to today, it has been done openly and it has been done publically. There are minutes to back that up. If no one came to speak, we cannot help that. Maybe it didn't get as much publicity as it should have but it was not non-transparent. It was done in the open. He thinks one of the things that has been lost in this is what the mission of the Discovery Museum is. He voted for the site and still thinks it could have been a wonderful addition to the city. He thinks the mission of the Discovery Museum to give kids a chance to interact, be intuitive, and to learn while having fun is a wonderful thing but what we have seen over the last few months is that this has become a very divisive issue for the city. When something is this divisive, it can't be good for the city, for the park, for the citizens or for the Discovery Museum. He feels we need to take a step back. He assumes this resolution is going to pass which would exempt the 3.5 acres from this conversation. He would really like to reach out to the Discovery Museum from Council and work at finding a site that still works. If that is using public land, it will be in conjunction with using the Parks Board input and will be done differently than in 2004. If it is another site in the city, he still thinks the City can be a partner with the Discovery Museum to bring about something that benefits all of the citizens of Winchester from a variety of different ways. That was his reason for supporting the amendment today which is a little different from where he was two weeks ago which was trying to find a place of compromise where all of us could start to move forward.

Vice-Mayor Butler stated he still thinks the place on top of the hill would be a good spot. This has become bigger than this community unfortunately. It has set people off in the streets which is never a good thing. Each of us has probably spent 20-30 minutes going through emails and having conversations. Obviously, people on both sides have a lot of passion and both sides need to be commended for the effort they put forth. Anytime you have Shelly Lee involved, you have a lot of zeal. Phil Glaize and the Discovery Museum have put a tremendous amount of effort into this. He thinks where the Discovery Museum was going to go would have been a great thing but that is not what is going to happen. We, as a community, have to find a common ground and bring the process to a successful resolution for both sides. There is a lot of precedence in this state for facilities in public land. He comes from a city, Newport News, which has quite a few parks with museums. You try to merge the culture and the science with what is there. He thinks we can find the right place for this museum. Two weeks ago, he made a bad statement about petitions which he made an apology for. He did not intend to hurt anyone or their efforts because a lot of time was put into it. He wants to find a successful resolution and volunteered to help with that committee. He has been on Council for 10 years and this may be his last big issue. He is going to miss it because he likes to see successful resolutions.

Councilor Veach stated he echoes what Mayor Minor and everyone have said about this being a very agonizing position. He supports the Discovery Museum and their search for a new site. He supports open green space. With this proposal, he hopes we have found a

future solution and the best one will be found. He is hoping to have both green space and a new home for the museum.

Councilor Hill stated he appreciates all of the information received from the citizens of this wonderful city regarding the Discovery Museum, green space, and the park itself. He learned a great deal over the last 3-4 weeks about the citizens of this town. He is very much a people person and was very much against the Discovery Museum moving into the park. He is still against that but he is not against the Discovery Museum. He sees the wonderful work they do and is willing to pledge more money to them. He likes the idea of working with the Discovery Museum in locating a site that would be agreeable to not only this Council but to all of the citizens.

*The amended resolution was unanimously approved by voice-vote.*

**R-2010-32:** Resolution – Acceptance of CLG Grant Funding for Historic District Survey

Councilor Clark moved to approve R-2010-32. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**R-2010-34:** Resolution – Accept BJA funding for Bullet Resistance Vests

Vice-Mayor Butler moved to approve R-2010-34. *The motion was seconded by Councilor McInturff then unanimously approved by voice-vote.*

**R-2010-35:** Resolution – Modification to CU-09-267 for Night Club Use

Councilor Clark moved to approve R-2010-35. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**R-2010-37:** Resolution – Adoption of Regular Meeting Schedule

Vice-President Major moved to approve R-2010-37. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2010-39:** Resolution – Accept DOJ Byrne Grant in the amount of \$17,500 for equipment purchase.

Vice-President Major moved to approve R-2010-39. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2010-40:** Resolution – Approval of \$300,000 to be donated to the Industrial Development Authority to partially fund a Real Estate Revolving Loan Fund and a Business Growth Revolving Loan Fund

Vice-President Major moved to approve R-2010-40. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2010-41:** Resolution – Adoption of Substantial Amendment to the 2009 CDBG Annual Action Plan

Councilor Veach moved to approve R-2010-41. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

**R-2010-42:** Resolution – Authorize the use of Department of Fire Program Funds to purchase and install radios

Mayor Minor moved to approve R-2010-42. The motion was seconded by Vice-President Major then unanimously approved by voice-vote.

**R-2010-43:** Resolution – Authorize agreement amendments with L. Kimball and Associates to complete services on Radio Communications System

Vice-Mayor Butler moved to approve R-2010-43. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**MOTION:** Approval of Agreement for Wastewater Discharge for Sunshine's Pride Dairy, Inc.

Vice-President Major moved to approve the agreement for Wastewater Discharge for Sunshine's Pride Dairy, Inc. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Appointment:** Motion to appoint David Heglas (Ward 1) and re-appoint Cynthia Ford (Ward 2) and Vince DiBenedetto (Ward 3) as members of the City School Board for a four year term ending June 30, 2014.

Vice-Mayor Michael Butler moved to appoint Mr. Heglas and re-appoint Ms. Ford and Mr. DiBenedetto to the Winchester School Board. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

Announce the term expiration of Joseph Kalbach as a member of the Industrial Development Authority effective August 31, 2010. Mr. Kalbach is eligible for re-appointment.

Announce the term expiration of James R. Wilkins, III as a member of the Frederick-Winchester Service Authority effective August 31, 2010. Mr. Wilkins is not eligible for re-appointment.

Announce the term expiration of Rebecca Strong Allen as a member of the Shenandoah Area Agency on Aging effective September 30, 2010. Ms. Allen is eligible for re-appointment.

**ADJOURNMENT**

Councilor McInturff moved to adjourn the meeting at 8:46 p.m. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

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Kari J. Van Diest  
Deputy Clerk of the Common Council