

**MINUTES OF THE COMMON COUNCIL  
WORK SESSION  
August 23, 2011  
City Council Chambers – Rouss City Hall**

**PRESENT:** President Jeff Buettner; Councilor Evan Clark, John Hill, John Tagnesi, Les Veach and John Willingham; Vice-Mayor Milt McInturff; Mayor Elizabeth Minor (8)  
**ABSENT:** Vice-President Art Major (1)

President Buettner called the meeting to order at 6:00 p.m.

**Items for Discussion:**

**Presentation:** MPO Long Range Plan specifically the Constrained Long Range Plan – Tim Youmans

Planning Director Tim Youmans presented a brief presentation on the Constrained Long Range Plan as part of the Long Range Plan by the Win-Fred Metropolitan Planning Organization.

**Discussion:** 20 Year VS 30 Year Bonds for Utility Projects – Perry Eisenach

Utilities Director Perry Eisenach stated Council adopted the rate increases for the next two years in July. The applications for funding have been submitted. When Council approved the rate increases, a 14% increase was selected with 30 year bonds. This is still up for discussion because Council will need to take action on the bonds in the next few months.

Councilor Tagnesi stated he did not see why Council would want to spend an extra \$9 million.

Councilor Clark agreed and stated the customers will see a minimal increase and he would rather save the \$9 million.

Councilor Veach asked if it would affect the City's rating. Finance Director Mary Blowe stated it would not.

Councilor Willingham stated he still thinks the 30 year is a good option and would continue to ask about 30 year bonds in the future.

President Buettner directed Mr. Eisenach to go with the 20 year bond.

**Discussion:** Schedule/Priorities/Funding of Priority Transportation – Perry Eisenach

Mr. Eisenach stated Council made the South Loudoun Drainage Project a priority last year. The application for funding has been submitted and approved with a City match. VDOT has also funded the reimbursement from the Jubal Early project. Mr. Eisenach asked if Council would like the reimbursement be used as the City's match on the South Loudoun project. If so, the project can proceed this fall. The reimbursement will not be received until next year.

*President Buettner excused himself from the discussion since his property is located in the area.*

Councilor Willingham confirmed that VDOTs Urban Funds are depleted. Mr. Eisenach stated the \$700,000 is still allocated to the City and recommended using it on the Valley Avenue Drainage Project.

Councilor Veach moved to forward to Council as recommended. *The motion was seconded by Councilor Willingham the unanimously approved 7/0 with President Buettner abstaining.*

**O-2011-44:** 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, 2012 – Mary Blowe

Finance Director Mary Blowe presented the additional appropriations for FY2012.

Mayor Minor moved to forward the ordinance to Council. *The motion was seconded by Councilor Tagnesi then approved 7/0 with Councilor Willingham abstaining.*

**O-2011-41:** AN ORDINANCE TO REZONE 0.2 ACRES OF LAND AT 448 AND 450-452 NORTH LOUDOUN STREET (Map Numbers 173-01-J-14 & 15) FROM LIMITED HIGH DENSITY RESIDENTIAL (HR-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH HW DISTRICT OVERLAY. The Comprehensive Plan calls for facilitating the rehabilitation of existing substandard housing units and infilling with higher residential densities. RZ-11-412 – Tim Youmans

Planning Director Tim Youmans presented the rezoning request at 448 and 450-452 North Loudoun Street. He stated the one story addition on the back of the property will be demolished. The front portion will have two units on the lower and upper levels of the home with a maximum occupancy of 9 people. 448 North Loudoun will also have units. The applicant will be going to the BZA to be granted variances for the setback deficiencies. Both properties are in the historic

district. The applicant is proffering most of the uses allowed in the district out. He would also not seek the rezoning if the variances are not granted.

Councilor Willingham stated some of the proffers pertain to energy efficient appliances and asked how that would be checked. Mr. Youmans stated the intent is to increase the quality of housing in the city. The applicant is also proposing certain security and management systems including closed circuit television in light of the high density of boarding house in that area.

Councilor Veach asked what the concerns from the Planning Commission were. Mr. Youmans stated the concerns were regarding the use at 450-452 and whether it was a large enough change for the neighborhood.

Mr. Gerhart stated the Planning Commission was also concerned with the procedural nature as the proffers were offered verbally at the meeting and the commissioners wanted more opportunity to get them in writing to review before going to Council.

Councilor Willingham asked if the EDA approved the sale of the property to the applicant. Economic Redevelopment Director Jim Deskins stated the EDA wants to bring value back to the property. The proffers will be attached as a covenant to the deed.

Councilor Veach asked how many parking spots are going to be allocated for the property. Mr. Youmans stated the application has not got to that point but they would have to abide by the parking set by council and would have off street parking in the back or 449 North Loudoun.

Councilor Willingham moved to forward the ordinance to Council. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

**O-2011-42:** AN ORDINANCE TO VACATE A PORTION OF NORTH KENT STREET RIGHT-OF-WAY ADJACENT TO 202 EAST PICCADILLY STREET AND 204 NORTH KENT STREET AND CONVEY IT TO THE OWNERS OF THE ADJACENT PROPERTIES SV-11-411 – Tim Youmans

Mr. Youmans presented the request for a street vacation due to an encroachment by the applicant. He stated the building sits on the public right of way. However, two pergolas were built to allow for outdoor cafes that extend into the right of way. From the curb to the pergolas there is a 4 foot width but it does not allow room for people walking due to the tree wells. Although it is wide enough for a wheel chair, the chair would need to make sharp turns to maneuver around the tree wells. The Planning Commission and staff recommend denial.

Councilor McInturff asked if there were any records of building permits. Mr. Youmans stated the applicant did seek approval from the BAR but it was not presented as in the public right of way.

Councilor Willingham asked if there would be enough space if the pergola was not there. Mr. Youmans stated it has been suggested to the applicant to propose a text amendment to allow seasonal seating in the public right of way but not permanent seating. The applicant wants to continue pursuing this before looking at other avenues.

Councilor Tagnesi moved to forward the ordinance for denial. *The motion was seconded by Councilor Clark then unanimously approved 8/o.*

Councilor Clark suggested working on the text amendment at the same time.

**O-2011-43:** AN ORDINANCE TO VACATE A SIX FOOT WIDE STRIP OF WEST CLIFFORD STREET RIGHT-OF-WAY ADJACENT TO 221 ROSZEL ROAD AND CONVEY IT TO THE OWNERS OF THE ADJACENT PROPERTY SV-11-435 – Tim Youmans

Mr. Youmans presented the request to vacate 6 foot of the public right of way to allow further separation in the back part of the applicant's property. Staff does not have a position on this request and does not see any purpose for keeping the land. The Planning Commission recommended approval.

Councilor Clark asked if there is usually a purchase arrangement or if it is a gift. Mr. Youmans stated it is up to Council. Residential arrangements have been approximately 50 cents per square foot. A tenth of this was approved 10 years ago but was not acted on. Mr. Youmans did not have a reason for the 10 year wait.

Vice-Mayor McInturff moved to forward the ordinance to Council. *The motion was seconded by Councilor Clark then unanimously approved 8/o.*

**Discussion:** Millwood Avenue Diversion – Tim Youmans

Mr. Youmans presented a summary of the study completed on the Millwood Avenue Diversion. He reviewed the preferred alternative to close Millwood between Bob Evans and where it connects to Apple Blossom Drive and create a continuous right turn lane on Jubal Early Drive. Apple Blossom Drive would be renamed Millwood Avenue and University Drive would be extended out to meet it. This option was selected because it improves safety, increases convenience, is well balanced and improves appearance. The consultant also recommended a few refinements if the alternative plan is chosen including updating signage, renaming Apple Blossom Drive, and improved access in/out of Hampton Inn.

Mr. Youmans stated the Planning Commission looked at the consistency with the Comp Plan including sustainability, new urbanism, alternative modes of transportation, and safer pedestrian and bike mobility support. The concerns would be the Apple Blossom Mall signage, access to Beltone, and the higher traffic volume in front of that access. Elimination of pavement would be consistent with the environmental goal of the Comp Plan as long as Shenandoah

University completes the proposed green space. The proposal is consistent with the economic strategy with the Economic Development Master Plan.

Mr. Youmans reviewed the 2009 MOU endeavors to create a new entrance from Route 50 and to examine and improve the traffic flow on Millwood Avenue. He also reviewed the issues needing to be resolved due to the multiple property owners in the questioned area and how the vacation could be divided. Although the proposal is consistent with the policy documents of the Comp Plan and Economic Strategy, there are some issues to be resolved that he reviewed.

President Buettner stated the Planning Commission recommended approval. However, he is looking to see if Council has no desire to relocate Millwood and stated now is the time to say so. If Council sees merit in the relocation even though there are questions to be answered, we need to adopt the study. He is comfortable with voting tonight but he needs the following things to be resolved:

- Resolve issues with commercial properties – Beltone, Allen Properties, & Simon
- More thorough traffic analysis of area that looks at the future growth predictions as well as future expansion within the university. Should show what it would do with and without the closure.
- Incorporate best safety practices with pedestrian and vehicular traffic. Mostly concerned with the weave and would hope to eliminate it.
- Conduct engineering study that shows the final layout of the realignment that should include a final cost analysis as well as a detailed time line.
- No federal, state or local government dollars be allocated on this project that could otherwise be used for city projects of a higher priority.
- Final architectural drawings to show what the new gateway would look like and a timeline for completion.
- SU would work with City bodies to create a signage plan to help people move around that area and get downtown or to other historic areas.
- SU to work with City to improve access and facilities in the park.

Councilor Veach asked for an explanation on the right turn. Mr. Youmans stated the turn would begin at the driveway for Bob Evans and continue past to the intersection. The intersection would not control the turn as it would be a free flowing turn.

Councilor Veach stated he would also like to know where the light would be located and expressed his concern about the park land.

Mayor Minor asked for clarification on what the vote would be for. President Buettner stated if Council votes no, the issue would be done. A yes vote would move the project forward but not bind Council down the road. It would not be committing to close the road but it would move the process forward.

Councilor Hill asked how this would strengthen the quality of life for the citizens. Mr. Deskins stated as we increase the education and improve the aesthetics of the community we increase the quality of life. Winchester is fortunate that the large employers seek students from SU which increases the quality of life. The opportunity to expand the arts and concerts will help to improve the quality of life of the citizens.

Councilor Tagnesi stated the project started many months ago and the perception was that City money would be used. As soon as SU said they would cover the cost, he stopped receiving calls on the issues. He thinks it should be moved forward.

Councilor McInturff expressed his concerns regarding Beltone and the historic value of the Winchester Armory if a wall were to go up that carves out this area for SU. Although the armory is owned by SU, he would not want to see it torn down. He would also like more information on the events center including traffic. He asked what piece of the events the city would get from the taxation, etc. He would also like to see a more complete plan of the whole thing so citizens are not afraid of what lies around the corner.

Councilor Willingham stated he would like to know how the issue with Beltone and the existing business owners will be resolved, what the impact of the Old Town Merchants and property owners will be, and what the entryway or gateway to the city will look like. He would like the City to have input on the design of the gateway. He stated SU needs to be given the opportunity to resolve these issues.

Councilor Clark asked if a third lane would be added to University Drive. Mr. Youmans stated that would come out in an engineering study along with a left turn lane to Hampton Inn.

Councilor Clark expressed his concerns with the existing buildings within SU. He stated the landscaping put into place barely meets the minimum standards for the city. Also, the signage is lacking. He stated these are things that could have been done at any point and asked why there is a big push now.

Mayor Minor asked Karen Helm, Director of Old Town, about the comments from the downtown merchants. Ms. Helm stated the merchants feel Old Town is coming into its own as a separate destination and people are finding them through the website and signage.

Councilor Veach moved to forward the item so SU can get answers to Council's questions. *The motion was seconded by Councilor Willingham and passed 7/1 with Councilor Clark voting in the negative.*

**R-2011-32:** Resolution to approve the development agreement by and between the economic development authority and Oakcrest Properties, LLC concerning the redevelopment of 29-35 East Boscawen Street – Jim Deskins

Mr. Deskins presented the resolution for approval. He stated the pro-rata insurance needs to be addressed. He also presented a summary of the deviations from the original agreement.

Councilor Clark asked at what cost the city will have to pay for the conveyance in 5 years. Mr. Deskins stated there will not be a cost but there will be a common area maintenance fee.

Mayor Minor moved to forward the resolution to Council with reconciliation of the areas discussed. *The motion was seconded by Councilor Willingham then unanimously approved 8/o.*

**O-2011-33:** Resolution to advertise for public input on the 2010 Consolidated Annual Performance Evaluation Report - Carla Taylor

Martha Shickle, Executive Director of the Northern Shenandoah Valley Regional Commission, presented a summary of the 2010 CAPER and the overall accomplishments made.

Councilor Willingham moved to forward the item to Council. *The motion was seconded by Councilor Hill then unanimously approved 8/o.*

**R-2011-31:** Emergency Communications Service Project– Lynn Miller

As a result of the discussion at the August 16, 2011 Work Session, Emergency Management Coordinator Lynn Miller presented additional information on the Communications Service Project including a chronology of events on the project.

President Buettner asked if the resolution was to go for RFP for the 800 MHz system and others. Mr. Miller confirmed it was and stated staff would come back to Council for approval.

Councilor Willingham moved to forward the resolution to Council. *The motion was seconded by Councilor Veach then unanimously approved 8/o.*

**EXECUTIVE SESSION:** MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION.

Vice-Mayor McInturff moved to convene into executive session at 8:18 p.m. *The motion was seconded by Councilor Willingham then unanimously approved 8/o.*

Councilor Willingham moved to reconvene in open session at 8:39 p.m. *The motion was seconded by Councilor Veach then unanimously approved 8/o.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

*A roll call vote was taken, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
President Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Absent
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Willingham	Aye

### **Report of Liaisons**

Councilor Veach reported the School Board held their retreat last weekend. At the next Ad Hoc Committee meeting on September 6<sup>th</sup>, they would like to discuss the meals tax and give a summary of the comp plan. They would like to discuss salaries and teacher pay at the October meeting.

Councilor Willingham reported the MPO approved a grant to fund a consultant to help on the Tiger Grant which is excess stimulus funds.

Mayor Minor asked if there was something Council could do to keep the post office on the Old Town Mall. President Buettner asked for a resolution to be prepared for the September 13<sup>th</sup> meeting. Mr. Gerhart offered to provide a letter to the senators, Congressman Wolf, and the decision point in the post office.

### **Submitted Written Reports**

#### **Adjourn**

Councilor Willingham moved to adjourn the meeting at 8:41 p.m. *The motion was seconded by Vice-Mayor McInturff then unanimously approved 8/o.*



## THE COMMON COUNCIL

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*I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 14<sup>th</sup> day of September 2011 that the following Resolution is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 13<sup>th</sup> day of September 2011.*

### RESOLUTION

**WHEREAS**, the Radio Project Stakeholders, City staff has reviewed various options for improvements to the public safety communication system; and,

**WHEREAS**, in compliance with the Federal Communications Commission's regulations relating to narrowbanding is looming federal regulatory agencies to meet P25 technology; and,

**WHEREAS**, the Radio Project Stakeholders in coordination with the consulting personnel from Robert L. Kimball & Associates have deliberated and the Emergency Communications Project Manager has presented the findings and recommendation of the 800 MHz Trunked concept design, the 800 MHz and VHF Hybrid design and the Minimal Compliance Plan to Council for review and consideration.

**NOW THEREFORE, BE IT RESOLVED** that Common Council has received and reviewed the recommendation of City Staff as the Radio Project Stakeholders and has considered the qualifications and other factors associated with the project recommendation and hereby authorizes the issuance of a Request for Proposal for the 800 MHz conceptual design and the alternates and further authorizes the City Manager to sign all related documents relating to the Request for Proposal.

**Resolution No. 2011-31.**

**ADOPTED** by the Common Council of the City of Winchester on the 13<sup>th</sup> day of September 2011.

*Witness my hand and the seal of the City of Winchester, Virginia.*

*Kari J. Van Diest  
Deputy Clerk of the Common Council*