

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
April 10, 2007**

A regular session of the Winchester Common Council was held on Tuesday, April 10, 2007 in the Council Chambers, Rouss City Hall. President Charles T. Gaynor called the meeting to order at 7:30 p.m.

PRESENT: President Gaynor, Vice-President Griffin, Mayor Minor, and Vice Mayor Buettner. Councilors Clark, Coyne, Helm, Major, Masters. (9)

ABSENT: Councilors Butler, Nelson. (2)

INVOCATION – Christine Whiteside, First Baptist Church pronounced the invocation.

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

APPROVAL OF MINUTES – Vice President Griffin moved that the minutes of the March 13, 2007 Regular Meeting be approved as presented. *The motion was seconded by Mayor Minor and unanimously approved by voice-vote.*

Councilor Coyne made a motion to amend the March 13, 2007 Regular Meeting minutes to include the recording of the roll call vote for the Winchester Wireless text amendment. *The motion was seconded by Councilor Helm and unanimously approved by a voice vote.*

President Gaynor called upon Rob Humphrey. Mr. Humphrey introduced Troop 1 Boy Scouts from First Presbyterian Church that were present to earn their “Citizenship in the Community Merit Badge.”

REPORT OF PRESIDENT

- Public Hearing: ORDINANCE TO AMEND SECTION 7-17 OF THE WINCHESTER CITY CODE BY CHANGING THE POLLING LOCATION OF THE FIRST WARD FROM HANDLEY LIBRARY TO THE FELLOWSHIP HALL OF THE FIRST CHRISTIAN CHURCH OF WINCHESTER AT 75 MERRIMANS LANE.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:35 p.m.

- Public Hearing: AN ORDINANCE TO CONDITIONALLY REZONE AN APPROXIMATELY 2.0 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AT 1944 VALLEY AVENUE ZONED INTENSIVE INDUSTRIAL, M-2 DISTRICT. The Comprehensive Plan calls for both industrial and commercial uses in this area. **RZ-07-02**

Patrick Sowers, 117 E. Piccadilly Street, Winchester, VA 22601, was present and let Councilors know that although this ordinance may not have an immediate impact, rezoning

the site would be a change that would not only be in the best interest for them, but also for the City.

The President declared the public hearing closed at 7:37 p.m.

- Public Hearing: AN ORDINANCE TO APPROVE THE SALE OF CITY PROPERTY LOCATED IN ROLLING HILLS ESTATES, CONTAINING.304 ACRES (13,242 SQUARE FEET), MORE OR LESS, A PORTION OF MAP 289, DOUBLE CIRCLE 7, LOT 1, TAX MAP 289-7- -1, TO BALAJI, INC.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:38 p.m.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT SUBSECTION (B) OF SECTION 16-32 OF THE WINCHESTER CITY CODE CONCERNING THE CONSUMPTION OF ALCOHOLIC BEVERAGES AND POSSESSION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:39 p.m.

- Public Hearing: Request of Scott B. Weaver for a conditional use permit for multifamily dwellings within an existing structure at 1-3 South Loudoun Street (*Section 193, Double Circle 1, Block D, Lot 3*) zoned Central Business, B-1 District with Historic Winchester, HW overlay. **CU-07-02**

Chris Herz, 7018 Edgemont Road, Frederick, MD, was present to represent Mr. Weaver.

The President declared the public hearing closed at 7:42 p.m.

- Public Hearing: Comment on proposed 2008 Annual Action Plan for use of CDBG funds.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:43 p.m.

- Motion to adopt a resolution honoring Lewis M. McDaniel.

President Gaynor made a motion to table the resolution to the May 8, 2007 Regular Meeting. The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.

- Motion to adopt a resolution honoring Bennie H. Baker. *The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.*

Councilor Buettner presented a resolution to Bennie H. Baker.

President Gaynor asked if anyone present wanted to address Council.

Michael Phelps, 5095 Main Street, Stephens City, VA 22655, addressed council regarding his opposition on the tax rate increase.

President Gaynor then shared facts to the citizens of Winchester to clarify the actual amount of monies used to renovate area schools. He emphasized that the media referred to a cost of \$64 million to renovate John Handley High School but the true cost was only \$50 million with the difference of \$14 million in tax credits and private fundraising.

FINANCE AND ADMINISTRATION

Chairman Buettner presented the following:

- Second Reading, by title, for adoption: ORDINANCE TO AMEND SECTION 7-17 OF THE WINCHESTER CITY CODE BY CHANGING THE POLLING LOCATION OF THE FIRST WARD FROM HANDLEY LIBRARY TO THE FELLOWSHIP HALL OF THE FIRST CHRISTIAN CHURCH OF WINCHESTER AT 75 MERRIMANS LANE.

Councilor Clark voiced his concern of having a polling location in a religious facility because it may interfere with the separation of church and state. Vice-Chairman Coyne stated that Council directed the electoral board to look into other locations and this location was the only one suitable. Chairman Buettner stated that he also had reservations about this location but said voters have the option to complete an absentee ballot.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Clark	Nay
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
President Gaynor	Aye

- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ENACT SECTION 27-10 OF THE WINCHESTER CITY CODE BY CHANGING THE TAX RATE ON REAL PROPERTY FROM SIXTY-NINE CENTS (\$.69) FOR EVERY ONE HUNDRED DOLLARS (\$100.00) OF THE ASSESSED VALUE THEREFORE TO SIXTY-NINE CENTS (\$.69) FOR EVERY ONE HUNDRED DOLLARS (\$100.00) OF THE ASSESSED VALUE THEREFORE.

Chairman Buettner expressed the need for the tax increase in order to obtain a sustainable city. He stated Council had to advertise at a higher tax rate and then could lower it after discussion but they couldn't keep it at the revenue neutral rate of \$.51. Chairman Buettner also expressed that Winchester did not have space to build a new elementary school. Some of

the biggest complaints that he had received were regarding traffic congestion. He mentioned the upcoming projects of light synchronization, paving streets, and street lights in dark areas.

- Motion to re-appoint Jack McDonald, Terry Walker, and Debbie Lewis as members of the Parks and Recreation Board for three year terms expiring April 30, 2010. *The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.*
- Announce the term expiration of Jimmy Kilbourne as a member of the Winchester Regional Airport Authority effective June 30, 2007, and direct the Clerk of Council to advertise the vacancy. Mr. Kilbourne is not eligible for re-appointment.
- Announce the resignation of Karen Kennedy Schultz as a member of the Winchester School Board effective March 26, 2007, and direct the Clerk of Council to advertise the vacancy.
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Karen Kennedy Shultz as a member of the Winchester School Board. *The motion was seconded by Councilor Coyne and unanimously approved by a voice vote.*
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Philip Pate as a member of the Community Policy Management Team/ Community Services Act, Virginia First Cities Committee, and the United Way Allocations Committee. *The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.*

PLANNING AND DEVELOPMENT

Chairman Griffin presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO CONDITIONALLY REZONE AN APPROXIMATELY 2.0 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AT 1944 VALLEY AVENUE ZONED INTENSIVE INDUSTRIAL, M-2 DISTRICT. The Comprehensive Plan calls for both industrial and commercial uses in this area.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO APPROVE A SPOT BLIGHT ABATEMENT PLAN FOR THE ACQUISITION, REHABILITATION OR DEMOLITION AND RESALE OF 112 E. CLIFFORD STREET PER VIRGINIA CODE SECTION 36-49.1:1. **SBA-06-07 (P.H. held November 14, 2006)**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO APPROVE THE SALE OF CITY PROPERTY LOCATED IN ROLLING HILLS ESTATES, CONTAINING.304 ACRES (13,242 SQUARE FEET), MORE OR LESS,A PORTION OF MAP 289, DOUBLE CIRCLE 7, LOT 1, TAX MAP 289-7- -1, TO BALAJI, INC.

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
President Gaynor	Aye

- Motion to table until September 2007. Second Reading, by title, for adoption: AN ORDINANCE TO REZONE APPROXIMATELY 39 ACRES CONTAINING APPROXIMATELY 47 PARCELS OF LAND, EITHER IN FULL, OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT, CE DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 300 FEET OF, THE VALLEY AVENUE RIGHT OF WAY. The Comprehensive Plan calls for urban design guidelines for private development along corridors leading into the City and within the City center. The Proposed CE District does not affect the land use of a property. Instead, the district regulates building aesthetics and site features for major tourist access routes leading to the

City's Historic District. **RZ-06-02** *The motion was seconded by Councilor Coyne and unanimously approved by a voice vote.*

- First Reading: AN ORDINANCE TO VACATE PORTIONS OF IMPROVED N. CAMERON STREET AND E. PICCADILLY STREET RIGHTS OF WAY AND CONVEY THEM TO THE OWNER(S) OF THE ADJACENT PROPERTY AT 200 N. CAMERON ST. **SV-07-01**
- Motion to approve the request of Scott B. Weaver for a conditional use permit for multifamily dwellings within an existing structure at 1-3 South Loudoun Street (*Section 193, Double Circle 1, Block D, Lot 3*) zoned Central Business, B-1 District with Historic Winchester, HW overlay. **CU-07-02** *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to appoint Tim Bandyke as a member of the Board of Architectural Review for a four year term expiring April 30, 2011. *The motion was seconded by Councilor Buettner and unanimously approved by a voice vote.*
- Motion to appoint _____ as a member of the Board of Architectural Review for a four year term expiring April 30, 2011.
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Richard Bell and Tom McCabe as members of the Board of Architectural Review. *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to recommend to the Circuit Court that _____ be appointed to the Board of Zoning Appeals for a five year term expiring April 30, 2012.
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Azmi Uthman as a member of the Board of Zoning Appeals. *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Glen P. Burke as a member of the Winchester-Frederick County Metropolitan Planning Organization. *The motion was seconded by Councilor Coyne and unanimously approved by a voice vote.*
- Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Glen P. Burke and J. Stephen Bauserman as members of the Northern Shenandoah Valley Regional Commission. *The motion was seconded by Councilor Masters and unanimously approved by a voice vote.*
- Announce the term expiration of Greg Crawford, Todd Thompson, and Jennifer Esler as a member of the Winchester-Frederick County Tourism Board effective June 30, 2007, and direct the Clerk of Council to advertise the vacancies. All three members are eligible for re-appointment.

COMMUNITY SERVICES

Vice-Chairman Helm presented the following in the absence of Chairman Butler:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT SUBSECTION (B) OF SECTION 16-32 OF THE WINCHESTER CITY CODE CONCERNING THE CONSUMPTION OF ALCOHOLIC BEVERAGES AND POSSESSION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES.

Councilor Coyne was concerned that the language in section 16-32 subsection (b) was too broad and may open up the park for alcohol use.

Councilor Coyne made a motion to amend section 16-32 subsection (b) to insert “and public parks.” *The motion was seconded by Vice-Mayor Buettner.*

Vice-Mayor Buettner stated that we wanted to leave the door open to allow organizations to have fundraisers. *The motion to amend the ordinance was defeated by an approved voice vote with Councilor Coyne voting in the affirmative.*

The motion to adopt the ordinance was approved by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Clark	Aye
Councilor Coyne	Nay
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
President Gaynor	Aye

- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 9-80 AND 9-83 OF THE WINCHESTER CITY CODE PERTAINING TO STREAM BUFFERS.
- First Reading, by title: AN ORDINANCE TO AMEND SECTION 14-153 OF THE WINCHESTER CITY CODE CONCERNING EVENT PERMITTING.
- First Reading, by title: AN ORDINANCE TO AMEND SECTION 14-150 OF THE WINCHESTER CITY CODE CONCERNING EVENT PERMITTING.
- Motion to authorize a change order to increase cost from \$212,625 to \$292,665 on the Senior Center Project. *The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.*

- Motion to authorize a change order to increase cost from \$109,679 to \$169,679 on the Betty's Lane Drainage Project. *The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.*
- Motion to adopt a resolution approving a Natural Hazards Mitigation Plan for Northern Shenandoah Valley Communities. *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to adopt a resolution expressing Council's sorrow at the death of Robert K. Woltz. *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to prepare a Certificate of Appreciation for J. Stephen Bauserman as a member of the Frederick-Winchester Service Authority. *The motion was seconded by Councilor Griffin and unanimously approved by a voice vote.*
- Motion to appoint Art Major as a member of the Frederick-Winchester Service Authority for an unexpired term ending August 31, 2009. *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to recommend Pam Bell to the Virginia Emergency Response Council (VERC) for appointment to the Winchester/Frederick Local Emergency Planning Committee (LEPC). *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*
- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Charlotte Eller as a member of the Local Emergency Planning Committee. *The motion was seconded by Councilor Buettner and unanimously approved by a voice vote.*
- Announce the term expiration of Jeff Ricketts as a member of the Fire Prevention Code Board of Appeals effective June 30, 2007, and direct the Clerk of Council to advertise the vacancy. Mr. Ricketts is eligible for re-appointment.

NEW BUSINESS

President Gaynor distributed a list of Council's priorities for 2007-2008. He would like to present a motion at the May 8th, 2007 regular council meeting to approve the priorities.

Mayor Minor congratulated Finance Director Mary Blowe and Finance Chairman Jeff Buettner in the City of Winchester receiving the Certificate of Achievement for Excellence in Financial Reporting. It is the highest form of recognition in governmental accounting and financial reporting and its attainment represents a significant accomplishment by a government and its management.

She also wanted to remind Councilors that April 8th through April 14th is National Safety Telecommunications Week.

Mayor Minor also reminded Councilors that April is Fair Housing Month and that this month was the 39th anniversary of the passage of the Fair Housing law.

Mayor Minor read the proclamation stating that April was Child Abuse Prevention Month.

She reminded Councilors of the upcoming Doo-Dah-Day in Jim Barnett Park. Dr. Philip Pate had been selected as king along with Patricia Stiles as queen.

Lastly, Mayor Minor wanted to wish everyone a Happy Apple Blossom.

Councilor Griffin reminded Councilors that Wednesday, April 25th at 7:30 a.m. is the Planning and Development Meeting and also that May 17th is the Council Recognition Dinner.

Vice-Mayor Buettner reminded Councilors that the upcoming Finance Meeting had been moved from Friday, April 20th, to Monday, April 23rd.

Vice-Mayor Buettner then motioned to go into closed session to discuss "Personnel Matters and Consultation with Legal Counsel" at 8:46 p.m. *The motion was seconded by President Gaynor and unanimously approved by a voice vote.*

The regular Council Meeting reconvened at 9:23 pm.

Upon returning, committee members approved a motion to return to open meeting and 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>
Vice-Mayor Buettner	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
President Gaynor	Aye

Vice-Mayor Buettner made a motion to adopt counsel's recommendation concerning the employment contract. *The motion was seconded by Councilor Helm and unanimously approved by a voice vote.*

ADJOURNMENT –With no further business, Vice Mayor Buettner moved to adjourn the meeting at 9:24 p.m.



Cody A. Doland
Deputy Clerk of the Common Council