

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

A regular session of the Winchester Common Council was held on Tuesday, July 10, 2007 in the Council Chambers, Rouss City Hall. President Charles T. Gaynor called the meeting to order at 7:31 p.m.

PRESENT: President Gaynor, Vice-President Griffin, Mayor Minor, and Vice Mayor Buettner. Councilors Butler, Clark, Coyne, Helm, Major, Masters, and Nelson. (11)

ABSENT: None. (0)

INVOCATION – President Gaynor called for a moment of silence.

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

APPROVAL OF MINUTES –President Gaynor moved that the minutes of the June 12, 2007 Regular Meeting, June 19, 2007 Work Session, and June 26, 2007 Special Meeting be approved as presented. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

REPORT OF PRESIDENT

- Public Hearing: AN ORDINANCE TO CONVENTIONALLY REZONE A 0.2279 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AT 2150 SOUTH LOUDOUN STREET (*Section 272, Double Circle 1 ,Lot 7*) ZONED INTENSIVE INDUSTRIAL, M-2 DISTRICT **RZ-07-05**

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:32 p.m.

Councilor Helm arrived at 7:33 p.m.

- Public Hearing: AN ORDINANCE TO VACATE PORTIONS OF PAPERMILL ROAD RIGHT OF WAY AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTIES AT 3217 SHAWNEE DRIVE AND 2900 PAPERMILL ROAD **SV-07-02**

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:33 p.m.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 9-34 AND 9-38 OF THE WINCHESTER CITY CODE PERTAINING TO EROSION AND SEDIMENT CONTROL.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:34 p.m.

- Public Hearing: AN ORDINANCE TO AMEND SECTIONS 14-17, 14-18, 14-19, 14-20, 14-23 AND 27-40 OF THE WINCHESTER CITY CODE PERTAINING TO LOCAL MOTOR VEHICLE DECALS AND LICENSING REQUIREMENTS.

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: To receive nominations and citizen input on the appointment of one At-large representative to the Winchester School Board to fill one vacant term. The term will expire June 30, 2008.

Councilor Coyne announced that there were still no names to consider. He asked if anyone from the second, third, or fourth wards was watching the meeting, to please consider being a part of the community and consider filling the term.

- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Edwin Daley as a member of the Social Services Advisory Board, Planning Commission, Regional Jail Board, and Juvenile Detention Commission. *The motion was seconded by Mayor Minor and unanimously approved by a voice-vote.*
- Motion to accept the Analysis of Impediments to Fair Housing.

Mary Dale Jackson, 310 Amherst Street, Winchester, VA 22601, was present in opposition to address council. She said that she was a member of the Northern Shenandoah Valley Chapter of the Virginia Organizing Project. Ms. Jackson said that she had been working with the chapter on housing issues for about a year and she had attended one of the fair housing forums that were part of this process. She said that both the Office of Fair Housing and neighborhood service had been straightforward and open with them, but the taxpayers and the people of the valley were not well served by the consultant that held this process and wrote this report. She said that the fair housing forums were held during business hours when most people were working and they began with a ninety minutes presentation before any public comment was encouraged. She went on to say that after some of the citizens made an effort to be heard at the forums, they were not even included in the report.

Katy Pitcock, 384 Zepp Road, Star Tannery, VA 22654, was present in opposition to address council. Ms. Pitcock said that she was also a member of the Northern Shenandoah Valley Chapter of the Virginia Organizing Project. She explained that her concerns about the Analysis of Impediments to Fair Housing were based on her work with migrants, immigrants, and low-income people in Frederick County and the Northern Shenandoah Valley for the past twenty years. In her view, the Analysis of Impediments to Fair Housing was not intended to gather any information but intended to provide a template that had already been provided to other communities engaged in this process. She went on to say that fair housing laws exist to protect certain classes of people. She also said, "People are historically discriminated against because of race, color, gender,

age, disability, or family status and the analysis process did not reach out to these people. The survey that was done focused, according to the consultants report, on the housing industry.” Ms. Pitcock explained to council that during the process there was a very large event in which there would be hundreds of immigrants that could have been surveyed. She said that she offered to do that event with volunteers who would do verbal surveying of people who were going to be gathered at Lord Fairfax Community College for 12 hours over the course of two days. She contacted the consultant who then said “That’s a great idea. I’ll get back to you on that.” She said that the fact that he never got back with her says he didn’t really want that information. In conclusion, she stated, “As for the fair housing forums in our area, they were held with no serious media outreach and with little on the ground outreach to the communities of low-income people or protected classes. If you really want people to give you information, you don’t hold a forum at 2:00 in the afternoon. The only people who can come at 2:00 in the afternoon are people whose job it is to show up at that forum.”

Larry Yates, 29 Indian Camp Trail, Maurertown, VA 22644, was present in opposition to address council. He said that he is also with the Virginia Organizing Project but previously in his career he was a Senior Staff Person for the National Low-Income Housing Coalition. Mr. Yates said that during that period, he was actively involved in the process leading up to the National Affordable Housing Act of 1990 which created the home program. He also said he was involved with its implementation at the state and local level. Mr. Yates explained that the home program was designed as a flexible program which would give localities a wide variety of tools to meet housing needs such as tenant based rental assistance, and many other tools besides assistance to home buyers. He stated that the impression was given that all decisions had been made before community input had taken place. He said the Analysis of Impediments was not intended to be a check list but a real process that engages the whole community. He had talked to a number of people who were active in the community and should have known about this process but had never heard about it. He then handed out a “written testimony” which included proposed solutions to the councilors.

President Gaynor asked Mr. Yates if he had made the same presentation to surrounding counties. Mr. Yates indicated that he had not presented that particular presentation. President Gaynor then told Mr. Yates that he appreciated the comments he made where the resources were very limited and that he would go a step further and say we were “maxed out.” He said we would try and cooperate with surrounding communities but he felt that for the most part we were doing more than our fair share.

Councilor Clark then expressed his concerns with how the forums were held at 2:00 p.m. and also with the gentleman “not listening to the comments that were being made.” Councilor Clark said that it sounded like the individual that gave the recommendations to us did not do the job the City asked him to do.

Councilor Coyne then posed the question of how much time they had to decide. CDBG Coordinator Martha Shickle explained that HUD requires an Analysis of Impediments for Fair Housing to be completed as part of the City’s contract with them in order to receive CDBG funds. She said that in anticipation of their application for the HOME program, the City opted to do a regional analysis to be more cost effective so that they could get on

the same cycle with a regional analysis that would cover not only the HOME consortium participating jurisdictions but also the City of Winchester. She then said that the time frame was somewhat ambiguous. She explained that they had to do it but there was no set time limit on which the analysis must be conducted. Councilor Coyne then asked if council needed to come up with a decision that night. Martha said that it was council's decision but they did not have a particular deadline they were trying to meet.

Councilor Helm asked Martha if the analysis, as it was submitted to them, would jeopardize the City's participation in receiving any federal or state funding. Martha replied that she was not well rehearsed in not meeting the requirement because it had not happened to Winchester before. Generally speaking, she would anticipate that the process would go that they would send a performance report by the statutory deadline which was in September. They would then review that report and determine whether or not there are any gaps or omissions in any information that was required and if it was not satisfactorily met then they would submit notice to us and perhaps recommend actions that we should take. Ms. Shickle said that HUD does not generally remove funds for the first offense but then reiterated that she did not have experience in telling council how HUD would go about doing that.

Councilor Major asked Ms. Shickle who hired the contractor and did they perform the scope of work that was submitted. Ms. Shickle said that their office put together the scope of work with guidance from the HUD Richmond field office as well as Harrisonburg. She said they received two proposals in response to their RFP and that this particular organization was chosen. She said that her office, herself primarily, was the staff who managed the contract with the consultant. She then said that when they submitted their report for the scope of work, they met all of the requirements. She also said that the decisions made about the time and location of the forums, as well as the participants, the surveys, actions, and visits that the consultant made were made by city staff. She said that the consultant was an agent of the City so they directed the consultant to act in the way that they did.

Councilor Coyne said that he did not want to jeopardize getting federal funding but he explained that his concern was that the analysis was not attached to the agenda. He said that he was not prepared to vote on accepting something that was not in front of him. He explained that his preference was to hold off on it for at least a few weeks and look at the analysis and address some of the concerns. He said that they do not want to submit a document that would be subject to criticism or not be accepted. Councilor Masters agreed with Councilor Coyne and also expressed his concerns with voting on something he did not have in front of him.

President Gaynor asked Ms. Shickle what her overall opinion on the report was. She said that they were satisfied with the report and stated that they were eager to begin the recommendation. President Gaynor then asked for Vice-President Griffin and Vice-Mayor Buettner's input on the report on when it was presented to the Community Development Committee. Vice-Mayor Buettner stated that at the time, the report seemed thorough. He said that fair housing and affordable housing were two different issues. Vice-President Griffin stated that she thought the report was very complete and extremely enlightening. She said she felt it was an excellent 45-50 minute program.

City Attorney Tony Williams said that it was his understanding that the Analysis of Impediments for Fair Housing was posted on the City’s website for some time. He then stated that Ms. Shickle said that this was part of the application process for the home funds and he thought in order to have a completed application, this was one of the criteria. He said he thought it would affect funding in an indirect way. Ms. Shickle responded that it was definitely required upon establishment of the HOME consortium and they initiated this regional process in anticipation of that. She also said that if they did not do it now, they would have to do it later.

Councilor Helm made a motion to accept the analysis as presented. *The motion was seconded by Vice-President Griffin.*

Councilor Coyne continued to express his concerns about voting on something and accept it without having seen the entire document. He said he was just asking for two weeks until the next work session to have an opportunity to look at the whole document. Councilor Coyne made a motion to table the Analysis of Impediments for Fair Housing until the July 24, 2007 work session. *The motion was seconded by Councilor Major and defeated by a 5/6 vote.*

President Gaynor stated that they were back to the original motion to accept it as it was presented. The motion was passed with the following 6/5 vote:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Yes
Councilor Butler	No
Councilor Clark	No
Councilor Coyne	No
Vice-President Griffin	Yes
Councilor Helm	Yes
Councilor Major	No
Councilor Masters	No
Mayor Minor	Yes
Councilor Nelson	Yes
President Gaynor	Yes

No other citizens came forward to address council concerning this issue and the President declared the public hearing closed at 8:12 p.m.

- Council Review of Grant: FFY 2007 Edward Byrne Justice Assistance Grant Program.

No citizens came forward to address council concerning this issue and the President declared the public hearing closed at 8:13 p.m.

President Gaynor then asked if anyone who did not sign in would like to address council. *With no further citizens wanting to address council, President Gaynor declared the Public Hearing section closed at 8:13 p.m.*

FINANCE AND ADMINISTRATION

Chairman Buettner presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND SECTIONS 14-17, 14-18, 14-19, 14-20, 14-23 AND 27-40 OF THE WINCHESTER CITY CODE PERTAINING TO LOCAL MOTOR VEHICLE DECALS AND LICENSING REQUIREMENTS.

Councilor Coyne said that he fully supported eliminating the decals but at the last Landfill Oversight Committee meeting in which he was unable to attend but received the minutes, it said that they were going to require some type of sticker to have a quick reference for who was able to legally use the landfill. City Treasurer Mark Garber said that he spoke with Steve Frye, Landfill Manager, who stated that even though the decal was a quick reference, they were currently checking licenses anyway. Mr. Garber then quoted from the minutes of the Landfill Oversight Committee which said, "Landfill staff currently uses car decals as a method of identifying citizens who can legally use landfill disposal. The City of Winchester is considering abandoning the decal system. If this action occurs the City of Winchester will be required to implement some other method to identify their citizens who desire to utilize the landfill." President Gaynor said that he felt confident that council could come up with an alternate method other than a decal.

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 Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Nay
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Motion to appoint _____ as an At-large member of the Winchester School Board and for an unexpired term ending June 30, 2008. *The motion was seconded by Councilor Major.*

Councilor Coyne made a motion to table the above motion until the August 14, 2007 Regular Council meeting in order to find out an eligible candidate. *The motion was seconded by Councilor Major and unanimously approved by a voice-vote.*

Councilor Nelson said that council decided to make a change in the school board structure to make sure that it was inclusive for all of the citizens of Winchester and to have wards 2, 3, and 4 not want to come and be a part of their city was very frustrating at

best. He said that he wished people from those wards would reconsider and play a part in the school board because the children from those areas need a voice and support.

- Motion to adopt a Resolution establishing a schedule of regular and alternate dates for each Council meeting for the period beginning July 1, 2007, and concluding June 30, 2008. *The motion was seconded by Mayor Minor and unanimously approved by a voice-vote*
- Motion to appoint Charley Gaynor to the City Manager’s position on the Social Services Advisory Board *The motion was seconded by Mayor Minor and unanimously approved by a voice-vote*

PLANNING AND DEVELOPMENT

Chairman Griffin presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO CONVENTIONALLY REZONE A 0.2279 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AT 2150 SOUTH LOUDOUN STREET ZONED INTENSIVE INDUSTRIAL, M-2 DISTRICT. **RZ-07-05**

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	Abstain
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Viewers Report for: AN ORDINANCE TO VACATE PORTIONS OF LAKE DRIVE RIGHT OF WAY AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY AT 2705 VALLEY AVENUE. **SV-07-03**
- Second Reading, by title, for adoption: AN ORDINANCE TO VACATE PORTIONS OF LAKE DRIVE RIGHT OF WAY AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY AT 2705 VALLEY AVENUE. **SV-07-03**

Vice-Chairman Nelson asked Public Services Director Perry Eisenach if he heard comments made by residents adjacent to the property. Mr. Eisenach said that he personally did not speak with any of the residents. Vice-Chairman Nelson then asked Mr. Eisenach if anyone

had talked with the residents. He responded by saying that he could not speak for Frank Wright or Jim Deskins. Vice-Chairman Nelson asked Mr. Chuck Pine, 707 Kennedy Drive, Winchester, VA 22601, who was present in opposition of this ordinance, if he could see how the plan that Mr. Stutzman had proposed would help with traffic flow. Mr. Pine said that he can see how it would help but he wanted to know why the City of Winchester would sell the land. He said that he felt it would be better to lease the land for a number of years. He said that the land could be very valuable after both he and Mr. Stutzman were long gone. Vice-Chairman Nelson said that he wanted to hear how Mr. Pine felt but he did not feel compelled to vote against Mr. Stutzman. Mr. Pine said that he was just asking Council to wait until they saw a site plan. Planning Director Tim Youmans explained that this was an unused portion of Lake Drive and it was not going to be shut down. He said that they did not feel there was any impediment to anyone. Councilor Butler said that this whole project was part of the re-organization of Valley Avenue flow. He said that he felt very confident that the entrance would be very comfortable and it would help everyone.

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

- Motion to appoint Jim Deskins, Perry Eisenach, and Frank Wright as viewers for: AN ORDINANCE TO VACATE PORTIONS OF PAPERMILL ROAD RIGHT OF WAY AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTIES AT 2900 PAPERMILL ROAD AND 3217 SHAWNEE DRIVE. **SV-07-02** *The motion was seconded by Vice-Chairman Nelson and unanimously approved by a voice-vote.*
- First Reading, by title: AN ORDINANCE TO VACATE A 600 SQUARE FOOT PORTION OF WOOLEN MILL LANE PUBLIC ALLEY RIGHT OF WAY AND ASSEMBLE IT IN WITH THE ADJACENT TIMBROOK PARK PROPERTY AT 305 E PICCADILLY ST AND 314 WOODSTOCK LANE **SV-07-04**
- First Reading, by title: AN ORDINANCE AMENDING SECTION 8-2 OF THE WINCHESTER ZONING ORDINANCE TO ESTABLISH MOTOR VEHICLE PAINTING, UPHOLSTERING, AND BODY AND FENDER WORK AS A CONDITIONAL USE IN THE HIGHWAY COMMERCIAL, B-2 DISTRICT. **TA-07-04**

- First Reading, by title: AN ORDINANCE AMENDING ARTICLE 14.2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO STANDARDS AND GUIDELINES AND DEVELOPMENT INCENTIVES IN THE CORRIDOR ENHANCEMENT DISTRICT. **TA-07-03**
- First Reading, by title: AN ORDINANCE TO AMEND A ZONING PROFFER PERTAINING TO THE SITE LAYOUT PLAN ASSOCIATED WITH A CONDITIONAL REZONING OF 1800-1850 HARVEST DRIVE CONDITIONALLY ZONED HIGHWAY COMMERCIAL, B-2 DISTRICT. **RZ-07-06**
- Motion to appoint Anne Lewis to the City Manager’s position on the Planning Commission. *The motion was seconded by Mayor Minor and unanimously approved by a voice-vote.*

COMMUNITY SERVICES

Chairman Butler presented the following:

Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 9-34 AND 9-38 OF THE WINCHESTER CITY CODE PERTAINING TO EROSION AND SEDIMENT CONTROL.

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

- First Reading, by title: AN ORDINANCE TO CREATE THE WINCHESTER NATURAL RESOURCES ADVISORY BOARD.

President Gaynor expressed his concerns with supporting the ordinance until he knew exactly what they were going to do.

Vice-Mayor Buettner made a motion to amend the ordinance as follows:

WHEREAS, the NRAB shall be comprised of five (5) citizen members ~~who are deemed to have special knowledge, skills, and background in natural resources management,~~

The motion was seconded by President Gaynor and unanimously approved by a voice-vote.

- Motion to adopt a Resolution authorizing the Public Services Director to sign the project administrative agreements for the Green Circle Trail – Town Run Linear Park, Phase II. *The motion was seconded by Councilor Coyne and unanimously approved by a voice-vote.*
- Motion to adopt a Resolution authorizing the Public Services Director to sign project agreements for the construction of South Loudoun Street improvements. *The motion was seconded by Vice-President Griffin and unanimously approved by a voice-vote.*
- Motion to adopt a Resolution supporting the Regional Jail Hazardous Duty Employees' VRS Benefit Change. *The motion was seconded by Vice-President Griffin and unanimously approved by a voice-vote.*
- Motion to appoint Tim Bandyke to the Winchester Transportation Safety Commission for a four year term expiring July 30, 2011. *The motion was seconded by Vice-President Griffin and unanimously approved by a voice-vote.*
- Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Charlotte Eller, Denise Lee, David Reichert, William Horn, Charles McCarty, Jeffrey Laffoon, Wanda Legge, and Barry Bateman as members of the Local Emergency Planning Committee. *The motion was seconded by Mayor Minor and unanimously approved by a voice-vote.*
- Motion to appoint Jeff Buettner to the City Manager's position on the Regional Jail Board. *The motion was seconded by Mayor Minor and unanimously approved by a voice-vote.*
- Motion to appoint Mary Blowe to the City Manager's position on the Juvenile Detention Commission and Craig Smith as an alternate member. *The motion was seconded by Councilor Major and unanimously approved by a voice-vote.*

NEW BUSINESS

Mayor Minor wanted to remind everyone that National Night Out would be on Tuesday August 7, 2007 from 6:00-7:30 at four locations: Highland Avenue Church, the Downtown Mall, Montague Avenue Church, and also The Willows. She explained that it was a very nice evening and it was a great way to meet the law enforcement.

Mayor Minor also wanted to say that Valley Avenue was coming along beautifully. She said that she had received compliments on it already.

President Gaynor announced a survey of Council Committee Structure was distributed. He said the sooner he received the surveys, the sooner he could act on them. He also asked everyone to be completely honest and quite frank.

President Gaynor also encouraged councilors to participate in a ride along with the police department. He said that it was an interesting way to see a side of the City that they had never seen before.

President Gaynor then took the time out to commend Anne Lewis and Craig Smith on their exceptional work everyday. He said because of them, the City was accomplishing a lot.

Vice-President Griffin then asked councilors to stay for a short five minute meeting to discuss the kickball practice times.

ADJOURNMENT –With no further business, President Gaynor moved to adjourn the meeting at 8:55 p.m. *The motion was seconded by Mayor Minor and unanimously approved by a voice vote.*

Cody A. Doland
Deputy Clerk of the Common Council