

**WINCHESTER COMMON COUNCIL SPECIAL MEETING  
TUESDAY, OCTOBER 22, 2013**

A Special Session of the Winchester Common Council was held on Tuesday, October 22, 2013 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 6:00 p.m.

**PRESENT:** Councilor Jeff Buettner, Evan Clark, John Hill, John Tagnesi and Ben Weber; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach; President John Willingham (9)

**ABSENT:** None (0)

## **2.0 Red Ribbon Week Proclamation**

Mayor Minor read the proclamation honoring Red Ribbon Week and presented it to members of the Shenandoah Valley Young Marines. Members of the Shenandoah Valley Young Marines presented a brief history of Red Ribbon Week to educate the community on drug awareness.

## **3.0 PUBLIC HEARING**

### **3.1 O-2013-28: Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS. TA-13-146**

Lawton Saunders of 407 West Monmouth Street stated he has an interest in property on and surrounding the downtown mall. He would like to speak on the proposed change to create an entertainment district doing away with the conditional use permit currently required for nightclubs. He stated everyone in Winchester has a lot invested in the downtown mall. In his opinion, it has been a real success so far. Business locations are filling up and more people are moving downtown to live. He is not here to suggest there have been major problems in the downtown area but there have been incidents involving excessive noise and some vandalism mostly between the 11 and 2 hours and on the weekends that has unfairly disturbed people living in and around the mall. Since the only thing open during these hours is the night clubs with conditional use permits, one can easily assume that is where the problem is coming from. There is quite a difference in the activity before 11 with people enjoying the mall and after 11 as even suggested by some downtown restaurants. He stated he does not understand the rush to do away with the main leverage the City has to be sure these night clubs conform to the rules which make them compatible with their neighbors that live downtown. He has heard and read the comments supporting this change that suggest the ordinance with the ABC laws will take care of the problem. This might be true but everyone knows that an ordinance or conditional use permit that is not enforced will not matter. He suggested that no matter what happens with this ordinance, these entertainment establishments

be monitored as closely as apartment landlords to make sure they are complying with the noise ordinance for example. There are a number of inspectors checking apartments for zoning violations daily but he is not aware of any zoning inspector that checks these establishments to make sure they are complying with the noise ordinance. He stated as the mall evolves, there will need to be some policy changes that need to be made. There have already been modifications to the policy regarding truck traffic on the mall and there are discussions regarding the events on the mall. He knows it is a fine line to keep everyone involved happy but it can be done. He suggested giving a little time before making changes to existing ordinances. Most of the places that want a conditional use permit for a night club probably already have one anyway.

President Willingham asked if anyone else would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 6:12 p.m.

Councilor Weber moved to adopt O-2013-28. *The motion was seconded by Councilor Tagnesi 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>
Councilor Buettner	Nay
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

**3.2 O-2013-29:** Second Reading - AN ORDINANCE TO REZONE APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 400 FEET OF, THE BERYVILLE AVENUE RIGHT-OF-WAY RZ-13-380 (*Establishes a Corridor Enhancement District along Berryville Avenue*)

President Willingham asked if anyone would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 6:20 p.m.

Vice-President McInturff moved to adopt O-2013-29. *The motion was seconded by Councilor Weber 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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

**3.3 O-2013-30:** Second Reading – AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY. RZ-13-292 (*Redevelopment plan for the former Coca-Cola plant*)

Bob Ritter of 1644 Roberts Street stated he received the notice on this hearing but didn't know if this item was going to be decided on or just discussed. He called the Planning Commission a while ago and was told there were quite a few things the developer had to submit. He understands this is a property that someone has invested in and has been sitting there for a couple of years. They have done a little bit of work on it to make it fancy on the outside but they have left everything else to deteriorate. He is assuming the developer wants to get some investment out of this property which he understands but he does not think turning it into low income type apartments is the best use for this property. He does not think they will get any buyers for the apartments because it is not really close to anything and it is right on Valley Avenue. He would rather the property be turned into some type of a community center because there is not a lot of things for people to do. There are a lot of apartments there but no community center. In his opinion, turning those into apartments with the way the building is designed and the investment needed, he does not think the developer will get much out of the deal and is not going to get the type of renters he expects.

President Willingham asked if anyone else would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 6:23 p.m.

Councilor Weber moved to adopt O-2013-30. *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>
Councilor Buettner	Aye
Councilor Clark	Aye

Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

**3.4 O-2013-14:** Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT TA-13-138 (*Revision to temporary sign provisions and permit requirements*)

President Willingham asked if anyone would like to address Council on this issue. Seeing none, the President declared the public hearing closed at 6:28 p.m.

City Manager Dale Iman stated after the last work session, there were a couple of issues that have been addressed in the amended version in front of Council tonight. The three issues addressed were increasing the amount of square feet for real estate signs, allowing banners along the university campus in the eastern gateway, and removing the word “banner” from Section 18-8-12.3 to be consistent with the rest of the amended ordinance.

Councilor Buettner stated he does not like voting on something Council has not seen before and would prefer to have this come back to a work session to discuss the changes that have been made.

Vice-President McInturff stated he would be in favor of tabling the issue and asked to have visual examples of the segments in the ordinance.

Councilor Buettner moved to table O-2013-14 to the next work session. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

#### **4.0 EXECUTIVE SESSION**

**4.1 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-President McInturff moved to convene into executive session at 6:40 p.m. *The motion was seconded by Councilor Buettner then unanimously approved by voice-vote.*

Vice-Mayor Veach moved to reconvene in open session at 7:15 p.m. *The motion was seconded by Councilor Buettner then unanimously approved by voice-vote.*

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>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

## **5.0 ADJOURNMENT**

Councilor Buettner moved to adjourn the meeting at 7:16 p.m. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

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Kari J. Van Diest, CMC  
Deputy Clerk of the Common Council