

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
May 14, 2013**

A regular session of the Winchester Common Council was held on Tuesday, May 14, 2013 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 7:01 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)

INVOCATION – Pastor James Utt of Grace Evangelical Lutheran Church presented the invocation.

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

APPROVAL OF MINUTES – October 26-27, 2012 Council Retreat, December 5, 2012 Council Retreat, January 15, 2013 Work Session, February 19, 2013 Work Session, February 26, 2013 Work Session, March 19, 2013 Work Session, March 26, 2013 Work Session, April 9, 2013 Regular Meeting, April 16, 2013 Work Session, and April 23, 2013 Work Session

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

REPORT OF THE MAYOR

Mayor Minor stated the City of Winchester and the Winchester Police Department want to recognize the assistance provided by Dr. James A. Davis, Mr. Michael Foreman, Mr. Charles Gaynor, and Mr. Al Pilong for their outstanding service to the law enforcement profession by agreeing to be charter members of the Frederick County/Winchester City Law Enforcement Foundation. The Foundation has been an outstanding asset to the local law enforcement community. The Foundation has helped support and fund police training, community youth activities and law enforcement equipment. The members being honored tonight were members of the original Board of Directors, who have since moved on to other endeavors or passed away, as in the unfortunate case of our good friend Mike Foreman. She thanked the members for the invaluable assistance provided for making our Foundation a success. Mayor Minor presented the Certificate of Appreciation for Mike Foreman to Sheriff Lenny Millholland.

Mayor Minor announced the City received an Outstanding Corridor Transformation Award from the Valley Conservation Council for the improvements on Amherst Street

and the Green Circle Trail out at Glen Burnie. She presented the plaque to City Manager Dale Iman and encouraged everyone to get out and walk the beautiful trail.

Mayor Minor announced National Police Week is being recognized this week and on behalf of all the residents, the community and City Council, she thanked the department for all they do.

REPORT OF THE CITY MANAGER

City Manager Dale Iman stated item 3.9 on the Consent Agenda for the Enterprise Zone application submission requires a public hearing. The public hearing has been properly advertised in the newspaper according to our City Code but it was overlooked as it was put on the agenda. He asked Council to make a motion to remove item 3.9 from the Consent Agenda and add it to the Public Hearings as item 1.4.

Councilor Buettner motioned to move item 3.9 from the Consent Agenda to the Public Hearings as item 1.4. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Mr. Iman announced the City has been successful in the attempt of getting control of the trolley that was purchased with Federal Transit Authority funding. The FTA has agreed the City can use the vehicle for purposes other than fixed routes. Staff will be programming how the vehicle will be used in the future.

Mr. Iman stated the City is always striving to improve processes and transparency of local government. Along those lines, staff has posted the FY14 Budget online so citizens can review it, ask questions and make comments online.

Mayor Minor stated she knows Mr. Iman sent an email to all departments thanking them for the wonderful job they did during Apple Blossom but she would like to add to that and thank ALL of the departments. She stated it was amazing to see the streets so clean and everything so beautiful early the following morning after the Fireman's Parade and fireworks. You could not tell there had been thousands of people there the night before.

REPORT OF THE CITY ATTORNEY

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

1.0 PUBLIC HEARINGS

- 1.1 Public Hearing:** Re-appoint Melvin Thomas as a "Ward 4" member of the Winchester School Board to a four year term expiring June 30, 2017

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:09 p.m.

- 1.2 Public Hearing:** Re-appoint Mary Margaret Wise as a "Ward 1" member of the Winchester School Board to a four year term expiring June 30, 2017

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:10 p.m.

1.3 CU-13-132: Conditional Use Permit – Request of KKE Properties, LLC, for a conditional use permit for conversion of ground floor nonresidential use to residential use at 22 Wolfe Street (Map Number 193-01-C-8) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

Gail Engel of KKE Properties at 24 Wolfe Street suite 6B thanked everyone in the Planning and Zoning departments for answering all of her questions during this process. She stated the violation that is noted in the Conditional Use Permit application no longer exists as the tenant had a quick job transfer. She offered to answer any questions Council may have.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:11 p.m.

Vice-President McInturff moved to adopt CU-13-132. *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	Nay
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Nay
Councilor Weber	Aye
President Willingham	Aye

1.4 R-2013-26: Resolution: Authorization to submit an application for a Virginia Enterprise Zone during the 2014 designation round

Economic Development Director Jim Deskins stated the Enterprise Zone application is for two zones in the city. One in the north central portion of the city that would run from the Old Town area up along Loudoun Street to the city boundary. It would extend out National Avenue and include the commercial property out to the interchange with 81 and National Avenue. The other zone is in the area generally known as the Winchester Industrial Park. This will be a re-submittal of the application submitted last year.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:14 p.m.

Councilor Buettner moved to approve R-2013-26. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

2.0 PUBLIC COMMENTS

Arthur Christjohn of Fairmont Avenue distributed pictures taken of a school bus stopped at Braddock Street and North Avenue to Council. He stated the driver of school bus number 5 runs the stop sign, stops in the middle of the intersection, and then discharges the passengers. He was getting ready to cross the crosswalk when these pictures were taken which means the bus driver did not even stop for the pedestrian in the crosswalk. He stated had he not looked up, he would not be speaking to Council today. He would be in the morgue or in the hospital. He took the same pictures to the School Board office and told them something needed to be done about the bus running the stop sign and parking in the middle of the street and was told it was a safety issue. He stated that cannot be because if a fire truck or police car comes up North Avenue with the way the street is, they will run right into that school bus. That is not a safety issue. He stated he thinks the school bus should park on the other side of the street thus preventing people turning right and people coming north but anyone going behind the school bus would be okay. That would make it easier for the driver to block the main portion of the traffic which is what she is trying to do on Braddock Street. He stated you can't just run a stop sign and discharge people in the middle of an intersection. If you let one person do it, everybody is going to do it. He stated this is the only intersection this bus seems to do it on. When he has called the Police Department, they ask if the bus is still there but it has always left. He can't stand in front of it to keep it there. He stated when that picture was taken; the school bus clearly exceeded the speed limit of 25 mph. Since he lives on Fairmont Avenue, he sees the school busses from Frederick County, Powhatan, and the City exceeding the speed limit of 25 mph. He stated he would like that to be addressed as well. He has a video of the school bus and offered to email it to any of the Councilors who would like to see it. He stated it is sad that this is the way the school busses are operating in this town and it shouldn't be.

President Willingham asked City Manager Dale Iman to investigate this issue with the School Superintendent.

No further citizens came forward to address Council.

3.0 CONSENT AGENDA

- 3.1 O-2013-10:** 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, 2013
- 3.2 O-2013-12:** First Reading – AN ORDINANCE TO REZONE 0.45 ACRES OF LAND AT 2307 STONERIDGE ROAD (Map Number 269-05-A-1) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO LOW DENSITY RESIDENTIAL (LR) DISTRICT WITH CE DISTRICT OVERLAY RZ-13-98

- 3.3 O-2013-13:** First Reading – AN ORDINANCE TO REZONE A 0.75 ACRE PORTION OF LAND AT 441 LINDEN DRIVE (Map Number 130-01- -1) FROM LOW DENSITY RESIDENTIAL (LR) DISTRICT TO MEDICAL CENTER (MC) DISTRICT RZ-13-134
- 3.4 O-2013-14:** First Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, AND FEES TA-13-138
- 3.5 R-2013-27:** Resolution – Approval of Intent to Reimburse Expenditures with Proceeds of a Borrowing
- 3.6 R-2013-23:** Resolution – Approval to refund \$3,586.67 for prorated Business License Taxes for tax year 2012 to Hampton Inn
- 3.7 R-2013-24:** Resolution – Approval of the Personal Property Tax Relief Rate for tax year 2013 at the proposed rate for fifty-three percent (53%)
- 3.8 R-2013-25:** Resolution – Authorization to apply for a Department of Justice Byrne Justice Assistant Program grant to support the purchase of equipment and services for the Winchester Police Department and to execute those transactions
- 3.10** Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Dario Savarese for his service on the Winchester-Frederick County Tourism Board

Councilor Buettner moved to approve the consent agenda. The motion was seconded by Vice-Mayor Veach.

Councilor Tagnesi stated for item O-2013-13, he is required to make the statement that his wife is a retiree from the hospital and is receiving a pension but that does not disallow him from participating fairly, objectively, and in the public interest.

President Willingham stated that since this is a first reading, he would like to abstain from the same item but can approve the consent agenda.

The motion was then unanimously approved by voice-vote.

4.0 AGENDA

- 4.1 O-2013-11:** First Reading – AN ORDINANCE TO AUTHORIZE THE APPROPRIATION OF FUND FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2014

Councilor Weber moved to open the floor for discussion. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Councilor Weber stated this could be better discussed at a work session but he would like to address some issues he has thought of and discussed with other councilors and citizens. He would like to use this as an outline for a discussion at next week's work session and give staff time to answer some of his questions at that time. For general information for the public, one cent on the tax rate is equal to \$275,821.00. The current tax rate is \$0.95 on \$100.00. The list of items he would like to discuss at the work session is about \$1.5 million. He is not suggesting eliminating any of the following but possibly a reduction in some cases because we do have to remember this is the tax payer's money and it is our responsibility to spend it wisely. He stated the items he would like to discuss next week are 1) the million dollar bond for the Parking Authority – can this be delayed, 2) Meadow Branch Extension – is the \$50,000 for a study linked to John Kerr, 3) individual department websites – is that practical, 4) more information on the \$66,000 for tactical cameras, 5) staff raises at 2% - would like to see a period for new employees to become vested before getting a raise, 6) \$192,000 for outside agencies, 7) \$100,000 for the Discovery Museum even though the application was filed late, and 8) the new Public Works pick-up truck – where did the money come from.

Mr. Iman asked if it is Council's intent to have a discussion on the Budget at the next work session. There have been three work sessions so far and these items have been discussed.

President Willingham asked that the item to be put on the work session agenda so people can ask additional questions.

4.2 O-2013-15: First Reading – AN ORDINANCE TO IMPLEMENT THE PROVISIONS OF THE BOARDS AND COMMISSIONS MEMORANDUM ADOPTED BY COMMON COUNCIL ON FEBRUARY 12, 2013 PERTAINING TO THE FUNCTIONING AND PROCESSES ASSOCIATED WITH THE APPOINTMENT AND OPERATIONS OF THE TREE COMMISSION; NATURAL RESOURCES ADVISORY BOARD; AND OTHER COUNCIL-APPOINTED BOARDS AND COMMISSIONS

Councilor Buettner moved to open the floor for discussion. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

Councilor Buettner apologized in advance and stated some of this is for his own edification as he was absent for the March 12, 2013 meeting where this was removed from the table and voted on. He addressed Mr. Iman and stated on February 12th, this was tabled and the reason it was tabled was there were some pretty major changes being proposed to existing committees. His feeling when he made the motion to table and it was unanimously approved was we had not had enough discussion with the affected bodies, namely the NRAB and the Tree Commission as well as the Parks Board. The motion was to meet with and it specifically stated Ms. Farris from the Parks Board, Mr. Roulston from the Tree Commission, and Mr. Worthington from the Natural Resources Board as well as yourself, Mr. McInturff, and any members of staff that you felt appropriate to

discuss the proposed changes, to ask for any recommendations or input they would have, and to come back to Council with those recommendations. He stated he has gone through the minutes and sees where it was moved from the table and voted on but he didn't see any, at least written format, recommendations that would have been made by those three individuals, the results of the meeting, or any alternative plans. He is curious what if any results came from meeting with those three individuals.

Mr. Iman stated he met with Mr. Roulston, Mr. McInturff, and Brad Veach to discuss Mr. Roulston's opinions on the Tree Commission and received his feedback. Brad Veach met with the Parks Board to discuss the proposal and received feedback. As he recalls from a conversation with President Willingham, Mr. Worthington was not available to meet.

President Willingham stated Mr. Worthington was out of the country but he has discussed these items with him.

Councilor Buettner stated the spirit of the motion was to try to get everybody together to discuss it. From conversations he has had with various members of the Parks Board, they don't really feel it was a discussion but more of a here is what we are doing. He knows there were some pretty strong feelings from members of each of those three bodies on why this is not maybe the best plan and he knows there were many alternatives. His question is what was asked for by Council was to come back with those recommendations and he didn't see that anywhere. Did Council get any of that? He stated what we have is exactly what was tabled. There were no changes.

Mr. Iman stated the procedure was outlined in a memorandum format and shared with the Parks Board as well as Council receiving it. Based on the process that was put together from the group of individuals he mentioned that is the direction Council voted on.

Councilor Buettner asked if the city sat down with those three as a body in a collaborative effort to try to find a better solution than what was presented in February. Mr. Iman stated that was not the understanding. Councilor Buettner stated that is what the minutes reflect the motion was. Mr. Iman stated he does not doubt that but that is not what the understanding was.

Councilor Buettner stated in reading the ordinance that has been crafted to follow the decision that was voted on last month, it creates an awful lot of work for whoever the new Park Board Director is. It creates another ad hoc committee with no set rules, regulations or standing much like the Natural Resources Board is now which has not worked the way he believes Council designed. He stated he is concerned that by doing it again, Council has not learned from what didn't work the first time and are just repeating it. He would love the opportunity for more discussion on whether we need a Tree Commission, whether the role of the Natural Resources Board can be rolled into the Tree Commission, and whether what is being proposed here is the best way

to utilize people who volunteer their time and expertise for no other reason than to benefit the city.

Councilor Buettner moved to strike from O-2013-15 all references to the elimination of the Tree Commission and the Natural Resources Board and send just that part of the discussion back to work session for further deliberation and keep what is on there as far as the structure for appointments because he knows that is the meat of this. He stated he would personally feel much better to have more discussion on how this thing is going to work moving forward. It may be an ad hoc committee shouldn't exist at all and should just go away or it may be that a standing committee needs to be there. He does not feel Council has had enough discussion on it or has brought in enough people who have served in those capacities opinions. The motion was seconded by Mayor Minor.

Vice-President McInturff stated he gave a report on the meetings with Mr. Iman, Mr. Roulston, and Brad Veach and generally speaking what came out of that meeting was the recommendation that there was not justifiable meat on the bone to keep the Tree Commission. He does not disagree with what Mr. Buettner is saying and thinks anytime Council can talk about something and vet it out, he is okay with it. He would support taking it back to the work session.

Councilor Buettner's motion was unanimously approved by voice-vote.

- 4.3** Motion to correct and amend the appointment of P.J. Lewis made at the regular meeting of Common Council on April 9, 2013 to reflect the recommendation for appointment of P.J. Lewis to the BZA (Winchester Board of Zoning Appeals) for a term commencing on May 14, 2013 and ending on April 30, 2018, rather than appointment to the BAR (Board of Architectural Review)

Vice-Mayor Veach moved to correct and amend the appointment of P.J. Lewis. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

- 4.4** Motion to appoint _____ as a member of the Winchester Parking Authority to a five year term expiring May 31, 2018

Mayor Minor moved to appoint Howard Manheimer to the Winchester Parking Authority. *The motion was seconded by Vice-President McInturff then approved 8/1 with President Willingham voting in the negative.*

- 4.5** Motion to re-appoint _____ as a member of the Winchester Parking Authority to a five year term expiring May 31, 2018

Mayor Minor moved to re-appoint Richard Helm to the Winchester Parking Authority. *The motion was seconded by Vice-President McInturff then unanimously approved by voice-vote.*

- 4.6** Motion to appoint _____ as a member of the Economic Development Authority to a four year term expiring August 31, 2017

Mayor Minor moved to appoint Doug Toan to the Economic Development Authority. *The motion was seconded by Vice-Mayor Veach then unanimously approved by voice vote.*

- 4.7** Motion to re-appoint _____ and _____ as members of the Lord Fairfax Community College Board each to a 4 year term expiring June 30, 2017

Vice-President McInturff moved to re-appoint Fran Jeffries and Joe Wright to the Lord Fairfax Community College Board. *The motion was seconded Councilor Weber then unanimously approved by voice-vote.*

- 4.7** Announce the resignation of R. Hunter Hurt as a member of the Building Code Board of Appeals effective April 17, 2013 and direct the Clerk of Council to advertise the vacancy

- 4.7** Announce the resignation of Jason Ransom as a member of the Board of Zoning Appeals effective April 25, 2013 and direct the Clerk of Council to advertise the vacancy

5.0 EXECUTIVE SESSION

5.1 MOTION TO CONVENE IN AN EXECUTIVE SESSION PURSUANT TO 2.2-3711(A)(28) FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF THE SUBJECT MATTER OF RECORDS EXCLUDED FROM OPEN MEETING REQUIREMENTS PURSUANT TO SUBDIVISION 11 OF §2.2-3705.6 OF THE CODE OF VIRGINIA AND ISSUED IN ACCORDANCE WITH §56-575.6 OF THE CODE OF VIRGINIA TO THE CITY OF WINCHESTER AS AN AFFECTED LOCAL JURISDICTION AS THOSE TERMS ARE DEFINED IN §56-575.1 OF THE CODE OF VIRGINIA AND PURSUANT TO 2.2-3711(A)(1) FOR THE PURPOSE OF DISCUSSION OF THE SUBJECT MATTER OF PERFORMANCE, AND EVALUATION OF SPECIFIC PUBLIC OFFICERS, APPOINTEES, OR EMPLOYEES OF THE GOVERNING BODY WHERE SUCH EVALUATION WILL NECESSARILY INVOLVE THE PERFORMANCE OF SPECIFIC INDIVIDUALS, AND MOTION TO CONVENE IN AN EXECUTIVE SESSION PURSUANT TO SECTION 2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF CONDUCTING INTERVIEWS AND DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE EMPLOYMENT, ASSIGNMENT, AND APPOINTMENT OF CANDIDATES FOR COUNCIL APPOINTED BOARDS AND COMMISSIONS. IN ACCORDANCE WITH THE PROVISIONS OF SECTION 2.2-3712(B) OF THE CODE OF VIRGINIA, SUCH PROCEEDINGS REGARDING CANDIDATES FOR COUNCIL APPOINTED BOARDS AND COMMISSIONS SHALL COMMENCE WITHIN FIFTEEN DAYS AT AN

UNDISCLOSED LOCATION AND SHALL BE CONCLUDED IN ACCORDANCE WITH SECTION 2.2-3712(D) OF THE CODE OF VIRGINIA AFTER SELECTION AND APPOINTMENT.

President Willingham asked for a motion to strike the last sentence of the Executive Session motion. *A motion made by Vice-President McInturff, seconded by Councilor Clark, was unanimously approved by voice-vote.*

Mayor Minor moved to convene into executive session at 7:40 p.m. *The motion was seconded by Vice-President McInturff then unanimously approved by voice-vote.*

Vice-Mayor Veach moved to reconvene in open session at 8:31 p.m. *The motion was seconded by Councilor Clark 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

6.0 ADJOURNMENT

Mayor Minor moved to adjourn the meeting at 8:32 p.m. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

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