

**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
August 13, 2013**

A regular session of the Winchester Common Council was held on Tuesday, August 13, 2013 in the Council Chambers, Rouss City Hall. Vice-President Milt McInturff called the meeting to order at 7:02 p.m.

**PRESENT:** Councilor Jeff Buettner, Evan Clark, John Hill and John Tagnesi; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach (7)

**ABSENT:** Councilor Ben Weber; President John Willingham (2)

**MOMENT OF SILENCE** – Vice McInturff led the councilors and citizens in a Moment of Silence.

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

**APPROVAL OF MINUTES** – July 9, 2013 Special Meeting, July 9, 2013 Regular Meeting, July 16, 2013 Special Meeting, July 16, 2013 Work Session, July 23, 2013 Work Session

Vice-Mayor Veach moved to approve the minutes as presented. *The motion was seconded by Councilor Buettner then approved 7/0.*

**REPORT OF THE MAYOR**

Mayor Minor announced the City received the 2013 Outstanding Comprehensive Plan Award for a Small City from the American Planning Association Virginia Chapter. She stated a lot of work went into this and she thanked Planning Director Tim Youmans and the Planning Department for their efforts.

**REPORT OF THE CITY MANAGER**

City Manager Dale Iman stated construction season is upon us. It began this week with an overlay of the streets to improve about 5 miles of pavement throughout the city. The sidewalk improvements will begin late September or early October.

**REPORT OF THE CITY ATTORNEY**

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

**1.0 PUBLIC HEARINGS****1.1 O-2013-19: Second Reading - Real Estate Tax Relief for Low Income Elderly and Disabled**

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:06 p.m.*

Vice-Mayor Veach moved to adopt O-2013-19. *The motion was seconded by Mayor Minor 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:*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
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	Absent
President Willingham	Absent

**1.2 O-2013-21: Second Reading – AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES TA-13-198 (Increasing fees for cell tower and antenna permits)**

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:07 p.m.*

Councilor Buettner moved to adopt O-2013-21. *The motion was seconded by Vice-Mayor Veach 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:*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
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	Absent
President Willingham	Absent

## 2.0 PUBLIC COMMENTS

Kathleen Erickson Nord of 9 West Jubal Early Drive stated she is the owner of Above and Beyond Holistic Services and would like to talk about the signs again. She stated Winchester is a really lovely place and she is glad that she moved here. She thinks many of the businesses in this area have really made a difference in this town and they need to be honored for that especially the small business people. She would like to think she has made a big contribution too since she has been here for 4.5 years. She stated the troubling situation about the signs that Council has heard about is about people earning income. When she took her signs down in early July, she lost on average \$745.00 a week according to her ledgers because people did not see her signs, they did not come in off the street and they did not know she had gluten free food. Before the sign ordinance is finalized, she thinks the small business community should be encompassed to find out what their needs are before putting anything in concrete because this has hurt her a lot. Last month, she was down over \$1500.00 and it was directly related to taking her signs down. She had people come in a while after that and ask her what happened and where she was going. She had to explain that she is not going anywhere but she had to take her signs down because the City did not like them. They were horrified and asked how people will know she had gluten free goodies. Since then, she has given it a lot of thought and thinks everyone needs to come together on this because it is not right to have the small business owners be affected like this and lose out on their income. She had a little trouble last month meeting all of her bills because of this. She wants to make a difference in the community but she also wants an income so she can survive here. She plans to stay here for a long time. She has signed a ten year lease. She asked Council to please help her and the other small businesses by consulting them to see what their needs are and cooperating with them on the new sign ordinance. Businesses vary with what their needs are for signs with sales. Sometimes she will have a special for a day but she does not want to have to come to City Hall to be approved for a sign for a day. You have to trust your business community who wants to be here and wants to serve you. Don't make it difficult on them. She loves Winchester and wants to make a difference in this community for the next ten years.

Richard Pifer of 601 Merrimans Lane stated he is the owner of property that is coming before Council for rezoning. He asked Council to keep an open mind as they move through this process. He stated he is very aware of the issues that are before them on this rezoning as they have been through it with the Planning Commission and adapted to what the City has felt is needed. He would simply like to underline that Council understands that this is an area for rezoning that is in the comprehensive plan for redevelopment and this project is going to be the nicest project in the city and in the county. It will draw the type of professionals and retirees that we are looking to have with the incomes we are trying to obtain in the city, in the downtown and in the peripheral areas. He asked that through this process they keep the dialogue going.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:12 p.m.*

## 3.0 CONSENT AGENDA

- 3.1 O-2013-22:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 10-51 OF THE CITY CODE TO INCLUDE AN EXCEPTION FOR BLASTING OPERATIONS RELATED TO CEMETERY BURIAL OF

DECEASED HUMAN REMAINS (*Reduction of insurance requirement for blasting at cemeteries*)

- 3.2 O-2013-24:** First Reading – AN ORDINANCE TO REZONE 44.44 ACRES AT 2410 AND 2416 PAPERMILL ROAD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT RZ-13-289
- 3.3 O-2013-23:** First Reading – AN ORDINANCE TO REPEAL SECTION 26-7 OF THE WINCHESTER CITY CODE WHICH WOULD ELIMINATE THE REQUIREMENT FOR THE PROPERTY OWNER OR OCCUPIER TO BE RESPONSIBLE FOR THE MAINTENANCE OF THE PUBLIC SIDEWALK ADJACENT TO THEIR PROPERTY (*with the exception of snow removal*)
- 3.4 R-2013-33:** Resolution – To amend and re-adopt sections 7.2 and 7.4 of the Winchester Comprehensive Employee Management System (“CEMS”)
- 3.5 R-2013-35:** Resolution – Authorization to apply for a Downtown Improvement Grant in the amount of \$25,000 from the Virginia Main Street Program to provide a matching source of up to \$5,000 for façade loans
- 3.6 R-2013-34:** Resolution – Authorization to apply for a Hardware Grant in the amount of \$1,000 from the Virginia Fire Service Board to support the current electronic record management software
- 3.7 R-2013-38:** Resolution – Authorization to apply and accept the Local Emergency Management Performance Grant for 2013 and to sign all documents necessary related to the grant
- 3.8 R-2013-37:** Resolution – Acceptance of grant funding and authorization to execute all documents for the Certified Local Government Grant to amend and expand the Nationally-Designated Winchester Historic District
- 3.9** Motion to re-appoint William Buettin as a member of the Economic Development Authority to a four year term expiring August 31, 2017
- 3.10** Motion to re-appoint John Schroth as a member of the Frederick-Winchester Service Authority to a three year term expiring August 31, 2016
- 3.11** Motion to re-appoint Mary Riley as a member of the Handley Board of Trustees to a six year term expiring June 30, 2019
- 3.12** Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Quaiser Absar, Dane Schell, Erica N. Truban, and Steven R. Miller for their service on the Information Technology Committee.

Councilor Tagnesi moved to approve the Consent Agenda as presented. *The motion was seconded by Councilor Hill then approved 7/0.*

#### 4.0 AGENDA

**4.1 O-2013-25:** First Reading – AN ORNDIANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY RZ-13-196

**4.2 R-2013-36:** Resolution – Adoption of the Sidewalk Master Plan to be used as the City’s guide for future sidewalk improvements

Councilor Buettner moved to approve R-2013-36. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

**4.3 R-2013-32:** Resolution – To allow Buettner Tire Distributors to enter into a contract with the City of Winchester for automotive services

Mayor Minor moved to approve R-2013-32. The motion was seconded by Vice-Mayor Veach.

Councilor Buettner stated he will not enter into any discussion or vote on this matter.

*The motion was then approved 6/0/1 with Councilor Buettner abstaining.*

**4.4** Announce the term expirations of Kim Burke, Stan Corneal, Brenda Adams, and Scott Dawson as members of the Old Town Development Board effective October 31, 2013 and direct the Clerk of Council to advertise the vacancies. Ms. Burke is not eligible for re-appointment. Mr. Corneal, Ms. Adams, and Mr. Dawson are eligible.

#### 5.0 EXECUTIVE SESSION

**5.1** 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-Mayor Veach moved to convene into executive session at 7:17 p.m. *The motion was seconded by Councilor Buettner then approved 7/0.*

Councilor Buettner moved to reconvene in open session at 7:29 p.m. *The motion was seconded by Councilor Hill then approved 7/0.*

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	Absent
President Willingham	Absent

Vice-President McInturff asked for a motion to add the following to the agenda: MOTION TO CONFIRM THAT ALL PLEADINGS FILED AND LEGAL ACTIONS TAKEN BY THE CITY ATTORNEY WITH REGARD TO CASE STYLED CITY OF WINCHESTER V. MARTIN B. GAVIS, CASE NUMBER CL-13000385-00 ARE CONSISTENT WITH THE LEGISLATIVE INTENT OF COUNCIL AND EXPRESS LANGUAGE OF ORDINANCE O-2013-18 WHICH WAS ADOPTED BY COMMON COUNCIL ON JULY 9, 2013 BY A VOTE OF (8) TO (1) AT ITS REGULAR MEETING.

*The motion was made by Councilor Tagnesi, seconded by Councilor Hill, then approved 7/0.*

Vice-Mayor Veach moved to confirm that all pleadings filed and legal actions taken by the City Attorney with regard to case styled City of Winchester V. Martin B. Gavis, case number CL-13000385-00 are consistent with the legislative intent of council and express language of ordinance O-2013-18 which was adopted by Common Council on July 9, 2013 by a vote of (8) to (1) at its regular meeting. *The motion was seconded by Councilor Buettner then approved 7/0.*

## **6.0 ADJOURNMENT**

Mayor Minor moved to adjourn the meeting at 7:31 p.m. *The motion was seconded by Councilor Buettner then approved 7/0.*

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