



**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
SEPTEMBER 8, 2015**

A regular session of the Winchester Common Council was held on Tuesday, September 8, 2015, in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 6:00 p.m.

**PRESENT:** Councilor Evan Clark, John Hill, Kevin McKannan, Corey Sullivan and William Wiley; Mayor Elizabeth Minor; President John Willingham (7)

**ABSENT:** Vice-President Milt McInturff; Vice-Mayor Les Veach (2)

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

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

**APPROVAL OF MINUTES** – August 25, 2015 Special Meeting, August 25, 2015 Regular Meeting and August 25, 2015 Work Session

Councilor Hill moved to approve the minutes as presented. *The motion was seconded by Councilor Wiley then unanimously approved 7/0.*

**REPORT OF THE MAYOR** – Mayor Minor thanked Councilor Hill for presenting the proclamation opening the Patsy Cline Music Festival this past weekend on behalf of the City. She stated 15,000 visitors have toured the Patsy Cline House during the first three seasons it has been open. That number is amazing since they can only take 20 people through the house at a time. There have been 159 buses come to visit the home with 17 visiting since April of this year. Plus, they have 745 people scheduled to visit in October and nine more bus groups are already scheduled for the 2016 season. She stated she thinks they are doing a terrific job and it is certainly helping the economy.

**REPORT OF THE CITY MANAGER** – Eden Freeman stated the National Avenue Gateway project is nearing completion. The stonework on the planter walls has been completed and some of the caps have been installed. The dark green privacy fence has been installed along the northwestern portion of the project. The decorative lights will be finished today or tomorrow and the plantings will be finished by the end of September. The historical markings are being processed and are expected to be installed by the end of the year. She stated the City issued a drought watch last week due to the current dry conditions. At this stage, the City is asking users of the water system to

voluntarily increase their water conservation measures. If the conditions worsen, a drought warning may be issued. The Public Services Division is monitoring the situation closely. She stated Public Services started the 2015 repaving program today which includes repaving on 15 different streets with an overall distance of approximately 10.37 lane miles. The streets selected for paving are based on a variety of criteria including the actual condition of the street, traffic volumes on the street and their current physical condition. The work scheduled for this week is planned for Omps Drive from Amherst to Fox, Caroline Street from Fox to the end and Whittier Avenue from Fox to Linden. All of the repaving is expected to be complete by Thanksgiving. The total cost is approximately \$1 million with the City paying \$500,000 and the State through VDOT contributing the other \$500,000. She asked that all motorists proceed slowing and cautiously in the work zones. She stated the Downtown Tailgate will be held this weekend, September 11 and 12. In addition to the gated wine and craft beer event with football games playing on the big screens, this year's event will have additional elements on the north and south side of the mall for families to enjoy free of charge including live music at the Taylor Pavilion. She encouraged everyone to come out and have a good time.

**REPORT OF THE CITY ATTORNEY** – Anthony Williams stated he did not have a report to present.

- MOTION TO ACCEPT THE RESIGNATION OF THE VICE PRESIDENT OF COUNCIL

Councilor Sullivan moved to accept the resignation of Vice President McInturff. *The motion was seconded by Councilor Hill then unanimously approved 7/0.*

- CALL FOR NOMINATIONS AND ELECTION – VICE PRESIDENT OF COUNCIL

President Willingham opened the floor for nominations.

Mayor Minor moved to nominate Councilor Wiley for Vice President. The motion was seconded by Councilor Hill.

President Willingham asked if there were any additional nominations to be considered. *Hearing none, he closed the nominations and the motion to nominate Councilor Wiley was unanimously approved 7/0.*

## 1.0 PUBLIC HEARINGS

- 1.1 **CUP-15-383:** Conditional Use Permit – Request of ANS Property LLC. for a Conditional Use Permit for extended stay lodging at 2649 Valley Avenue (Map Number 290-06- -1) zoned Highway Commercial District (B-2) with Corridor Enhancement (CE) District Overlay zoning.

*President Willingham asked if there was anyone wishing to address Council. Seeing none, he closed the public hearing at 6:06 p.m.*

Tim Youmans, Planning Director, referred Council to the revised list of conditions in the staff report that address the concerns from the August 25, 2015, Work Session in regards to the extension of the review time to one year, the number of police calls allowed, the requirement for a full re-approval in three years, the requirement for a on-site lodging manager's office, an occupancy limit of two adults or two adults and two children, compliance with the lodging tax and the requirement for smoke detectors and an annual Fire Marshall inspection. All of the conditions are consistent with previous extended stay lodging facility permits.

Councilor Clark asked if staff knows how many police calls the other property they operate had in the last year. Mr. Youmans stated he did not know.

Councilor Sullivan asked who would initiate the reporting of the number of police calls to Council. Mr. Youmans stated the police department would report it but it would most likely come through the Community Response Team through the Zoning office.

President Willingham asked how the occupancy limitation of no more than nine months will be tracked. Mr. Youmans stated it will probably be a matter of complaint basis. The most likely way would be if the City finds that someone is establishing a permanent address for a child at a school.

President Willingham stated he recently watched six or seven children get off a school bus in that area which promoted him to ask that question. He asked if there was any way to tell where those children were going. Mr. Youmans stated the City is constrained by a Supreme Court ruling in regards to the ability to look at the books.

Councilor Hill asked if any allowances are being made for pets. Mr. Youmans stated not that the City recommends but it would be up to the management of the facility.

Councilor Clark moved to approve CU-15-383. *The motion was seconded by Mayor Minor then unanimously approved 7/0.*

- 1.2 CUP-15-388:** Conditional Use Permit – Request of Peter S. Grasso Jr. of Grasso & Sons Development LLC. for a Conditional Use Permit for a single-family detached dwelling at 2413 Valley Avenue (Map Number 270-03- -13) zoned Highway Commercial District (B-2) with Corridor Enhancement (CE) District Overlay zoning.

*President Willingham asked if there was anyone wishing to address Council. Seeing none, he closed the public hearing at 6:15 p.m.*

Councilor Clark moved to approve CUP-15-388. *The motion was seconded by Vice President Wiley then unanimously approved 7/0.*

**1.3 Public Hearing:** Appeal of the decision by the Board of Architectural Review (BAR-15-336) regarding the replacement of windows for the property located at 210 South Washington Street (POSTPONED TO SEPTEMBER 22, 2015 – ITEM HELD BACK IN WORK SESSION ON

*President Willingham asked if there was anyone wishing to address Council. Seeing none, he closed the public hearing at 6:06 p.m.*

## **2.0 PUBLIC COMMENTS**

Sam Leinbach of 317 Fairmont Avenue stated he lives in a Queen Ann Victorian house that was built in 1897 that is exactly as it was in 1897. He stated the historic district needs to be easily marked by signs. He thinks the City needs to be more involved with the Preservation of Historic Winchester (PHW) and what can be done to maintain the fabric of the older homes. He stated contractors who work in the historic district should be informed each year when they renew their licenses of the covenants on the homes. The sightline of a side of a house is just as important as the front of the house because the neighbors will have to look at the side. He lives next to a house where they put a silo on the side of the house that looks a lot worse than a vinyl window. When he has worked with the City's Planning and Zoning departments, the staff has been very forthright, easy going and compatible and it has been a pleasure working with them most of the time. He thinks if a little more was done with the historic district guidelines, it would save a lot of headaches later.

Joseph P. Murphy of 338 East Piccadilly Street stated the number of skateboarders and bicyclists on the mall is getting out of hand. In addition to running Murphy Beverage Company, he has also become a tour guide downtown so he spends a lot of time on the mall. His tour groups have been buzzed by adolescent boys on bicycles shouting profanities and being an extreme nuisance. In one case, he called the police who apprehended a 10 year old boy and one of his guests said he expected this type of behavior in Baltimore not in Winchester. In other occasions, he has seen boys play "cat and mouse" with the police and go in the other direction on the mall. They also use the new planters for doing stunts on their skateboards and bicycles. He stopped one boy doing it on a planter in front of his store and the boy said there were no cops around so he will do what he wants. Mr. Murphy would like to see something done about this before someone gets seriously hurt. He stated the City ordinance states it is specifically forbidden on the mall and punishable by a \$50 fine and suggested the ordinance be applied.

Lori Thompson of 129 Edgewood Drive stated she is the owner of 147 North on the pedestrian mall. There are a lot of vagrants on the mall that she has had to run off and call the police on. She has had them walk onto her patio and try to sell liquor to her customers. She has had them stand in her gateway to coax customers out of the patio to buy illegal substances. She has had them freak out, scream and cuss in front of four year old children. Her business is right next door to the Dollar General and she is constantly calling the police. Most of the businesses on the mall are suffering because of the vagrants. She has talked

with her customers who have said they don't want to come downtown and deal with it. She had a vagrant brush his teeth and spit on her patio. Others have been sleeping in the doorway of Dollar General while her patio was full of customers. She has tried very hard to clean up the area and make her bar more of a restaurant. She suggested implementing a loitering policy after so many hours because there are people sleeping on the mall every night. Some of them are trying to keep themselves safe but others have guns or knives and are begging or trying to commit scams. She doesn't know how else to clean up the mall besides constantly calling the police every time there is an instance. She stated the newest scam is people will make a sign on a piece of cardboard and charge you to pet their dog. It is called a Hobo Petting Zoo. She grew up in this city and knows this is not the type of image Winchester wants to portray. She stated it is embarrassing when out of town customers mention some of the things they have seen walking around downtown. When the vagrants are sleeping, they are not always seen appropriately and it can be obscene at times. She suggested a no loitering after two hours policy should be enforced as in other localities. She also asked for a police presence on the mall as much as possible. People should not be scared to see the police; they should feel safe when they see them.

*President Willingham asked if there was anyone else wishing to address Council. Seeing none, he closed the public hearing at 6:24 p.m.*

### **3.0 CONSENT AGENDA**

- 3.1 O-2015-18:** First Reading – AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE. SV-15-406
- 3.2 O-2015-17:** First Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. TA-15-376
- 3.3 Motion to approve SD-15-384:** Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. for subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District.

President Willingham stated item 3.1 regarding O-2015-18 needed to be pulled off of the Consent Agenda for discussion.

President Willingham moved to approved items 3.2 and 3.3 on the Consent Agenda. *The motion was unanimously approved 7/0.*

**O-2015-18:** First Reading – AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE. SV-15-406

Ms. Freeman made the request to Council to amend the title to AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE ADJACENT PROPERTY OWNER(S). She stated staff heard late this afternoon from the owner of 328 Highland Avenue that he would be interested in acquiring a portion of the vacated alley should Council move forward with it. In the interest of cleaning this up, she asked that Council amend the title so it can be advertised correctly for the public hearing as it moves forward.

Councilor Sullivan moved to amend the title as recommended. *The motion was seconded by Vice President Wiley then unanimously approved 7/0.*

#### **4.0 AGENDA**

**4.1 O-2015-20:** First Reading – AN ORDINANCE TO AMEND SECTION 2-1 AND 2-2 OF THE WINCHESTER CITY CODE PERTAINING TO THE CITY SEAL AND DUTIES OF THE DEPUTY CLERK OF COUNCIL

Mayor Minor asked why the two items are together. She stated she supports the duties of the Clerk of Council but plans to vote no for changing the City Seal so it is hard with the two together. Ms. Freeman stated the issues were presented together since they are so intertwined. With an interest in being efficient with Council's time, staff decided to present them together since it applied to the application of the City Seal to official documents. She stated a motion at the next meeting could be made to pull that portion off and have the City Seal considered separate from the designation of who can apply the City Seal.

President Willingham stated the second part allows a designee of the Clerk to be able to use the seal. That is the only change.

Mayor Minor stated she thinks it would still be better to have it separate.

Mr. Williams stated if Council so directs, staff can bring samples of the two ordinances back for the second reading. Council can then make a motion to adopt option B which would be two separate motions.

President Willingham asked staff to please do that.

Ms. Freeman provided Council with a list of where the seal is currently used in response to a question asked at the last meeting. She reminded Council that the current proposal is to only change where the actual seal is used and not the elements there of. From an operational perspective,

changes can certainly be made through attrition and as new uniforms are ordered for police and fire personnel but the patches are not the official City Seal. That is simply elements of the seal. She stated the City Seal is currently used on ordinances, resolutions, financial reports, business cards, tax and utility bills, stationary and posters. On those items, it will simply be updating a computer template to what Council would like the seal to look like. The items that would have to be ordered as needed are the patches, commemorative items, plaques, lecterns, furniture, City vehicle decals and clothing. The police use elements of the seal on the accreditation decals on the vehicles. In the case of decals on vehicles, replacement decals can be ordered to place over top of the current decals at a cost of \$12.00 per decal. In addition, the Timbrook Public Safety Center has a memorabilia version of the seal above the name of the building, on a sticker on a window and on a couple of other plaques inside of the building. Public Services have the City Seal on some of the older snow plows and refuse trucks. Again, it is anticipated a new seal will be ordered and placed on top of the existing seal. It is also used on a few plaques in the City. She does not anticipate changing any of the historical plaques because it is a part of the City's history and would leave those as is if that is what Council directs. Other commemorative items have been distributed for recognition of City service. The Commissioner of the Revenue's office has a seal on the vehicle assigned to it which would be covered over with a new seal. For the Clerk of Council's office, there would be the cost of buying a new die to make the imprints. Staff can look at working with a stained glass artist to create a new version of the stained glass seal in Council Chambers or go with something that incorporates the City Logo that was adopted in 2011. For the Zoning and Inspections office, any new historical building plaques would be forged and changed as needed. They also have a decal on one of their vehicles. There is a stained glass exhibit hanging on the third floor that was removed from McDonalds and donated to the City. That could either be kept or staff can see if the donor would like to have it back. The memorial police plaques in the Timbrook Center are not being proposed to change because of the historical significance.

**4.2** Motion to Appoint \_\_\_\_\_ as a Member of the Parks and Recreation Board.

Vice President Wiley moved to appoint Bill Stewart to the Parks and Recreation Board. *The motion was seconded by Councilor Hill then unanimously approved 7/0.*

**4.3** Motion to Appoint \_\_\_\_\_ as a Member of the Shenandoah Area Agency on Aging.

Councilor Hill moved to appoint Bryan Scott Jenkins to the Shenandoah Area Agency on Aging. *The motion was seconded by Councilor Clark then unanimously approved 7/0.*

**4.4 MOTION TO APPOINT \_\_\_\_\_ AS A MEMBER OF THE LOCAL BUILDING CODE BOARD OF APPEALS**

Councilor Hill moved to appoint Bryan Scott Jenkins to the Local Building Code Board of Appeals. *The motion was seconded by Vice President Wiley then unanimously approved 7/0.*

**4.5 MOTION TO APPOINT \_\_\_\_\_ AS A MEMBER OF THE NORTHWESTERN COMMUNITY SERVICES BOARD**

Councilor Hill moved to appoint Daniel Birt to the Northwestern Community Services Board. *The motion was seconded by Vice President Wiley then unanimously approved 7/0.*

**4.6 MOTION TO NOMINATE \_\_\_\_\_ AS A MEMBER OF THE WINCHESTER SCHOOL BOARD**

Councilor Hill moved to nominate Marie Imoh as a member of the Winchester School Board. *The motion was seconded by Vice President Wiley then unanimously approved 7/0.*

**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 specifically including but not limited to current Winchester Circuit Court case Henschel et. al. v. City of Winchester, AND**

**5.2 PURSUANT TO §2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS, specifically including but not limited to the consideration of the possible appointments/reappointments to the Frederick-Winchester Service Authority and Airport Authority and the employment and performance of a specific employee.**

Vice President Wiley moved to convene in closed session at 6:36 p.m. *The motion was seconded by Councilor Clark then unanimously approved 7/0.*

Mayor Minor moved to reconvene in open session at 7:05 p.m. *The motion was seconded by Vice President Wiley then unanimously 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:*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
Councilor Clark	Aye
Councilor Hill	Aye
Councilor McInturff	Absent
Councilor McKannan	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Vice-Mayor Veach	Absent
Vice President Wiley	Aye
President Willingham	Aye

## **6.0 ADJOURNMENT**

Vice President Wiley moved to adjourn the meeting at 7:06 p.m. *The motion was seconded by Councilor Clark then unanimously approved.*

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Kari J. Van Diest, CMC  
Deputy Clerk of Council