



**WINCHESTER COMMON COUNCIL
IN REGULAR MEETING
OCTOBER 13, 2015**

A Regular Meeting of the Winchester City Council was held on Tuesday, October 13, 2015 in the Council Chambers, Rouss City Hall. Council Vice President Bill Wiley called the meeting to order at 6:00 PM.

CALL TO ORDER AND ROLL CALL

Present: Councilors Evan Clark, John Hill, Kevin McKannan, Milt McInturff and Corey Sullivan; Mayor Elizabeth Minor; Vice Mayor Les Veach and Vice President William Wiley (8)

Absent: President John Willingham (1)

MOMENT OF SILENCE

Vice President Wiley 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

2. Motion to approve the minutes from the September 22, 2015, Regular Meeting and September 22, 2015, Work Session.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Corey Sullivan, Council Member
SECONDER:	Les Veach, Vice Mayor
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

REPORT OF THE MAYOR

Mayor Minor announced she attended the Virginia Municipal League Annual Conference with the City Manager last week in Richmond. She stated the networking is amazing when you get together with council members from around the state and share ideas and learn about what other localities are doing. She encouraged her fellow councilors to attend next year's conference in Virginia Beach.

REPORT OF THE CITY MANAGER

Eden Freeman stated the striping on Meadow Branch Avenue will begin this Thursday with the long line striping designating three lanes and a crosswalk for part of the road. The lines will be on each side for traffic, bikes and parking which, as a reminder, is what was approved on this item earlier in the year. Weather permitting, the bicycles and crosswalks will be painted by hand next week. No roads will be closed as a result of this work but caution is urged for all of the drivers traveling through the work zone. She stated this year's leaf collection will begin on Monday, October 19th, and asked everyone to check the City's website to see when crews will be in their area. Thinking ahead, the Public Works Snow Crew completed a dry run simulation of a snow event last week. Everything turned out very well and the crews believe they are prepared. In honor of Breast Cancer Awareness Month, she stated that the Winchester Fire and Rescue personnel are wearing pink t-shirts and raising funds internally to donate to Every Woman's Life, a local effort by Valley Health to help women in the Winchester area pay for breast exams. The ever popular Old Town OctoBeer Fest is this Friday and Saturday. There will be multiple, free family activities on the Loudoun Street Mall and at the Taylor Pavilion. Tickets can be purchased at www.oldtownwinchesterva.com <<http://www.oldtownwinchesterva.com>> and at the gate. She stated the Budget in Brief for Fiscal Year 2016 is now available on the City's website and hardcopies are available for pick up at City Hall. She encouraged all residents to take a look the Budget in Brief document.

REPORT OF THE CITY ATTORNEY

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

1. PUBLIC HEARINGS

- 1.1. O-2015-18:** Second Reading - Sv-15-406 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). **(REQUIRES ROLL CALL VOTE)**

Rick Brown of 1025 Armistead Street stated he has a rental property on the corner of Highland Avenue and Elk Street. That avenue has served as a bypass forever and is a public right-of-way. He was not aware of the closing until he received a letter last week. He stated he never saw a sign advertising the public hearing which should have been done. Before closing the right-of-way to benefit one or two families, Council should think about the greater good for the community. He suggested putting a traffic counter up there to see how many cars actually go through that alley. He stated if Highland Avenue was a two-way street, it would not be so much of a problem. Since it is a one way street, those cut off streets are very important to prevent more and more traffic from going out onto National Avenue. If the alley is going to be closed, people going north will have to proceed to make a right onto Highland heading south toward National Avenue and either make a left against the traffic coming into the city or make a right to the new

roundabout to Kent Street. He thinks everyone would like to see an alley or street possibly closed in their neighborhood but that is not what public streets are for. Private streets are private. Public is public. He expressed his concern that it would be a fire and safety issue. Police officers have told him the best benefit to crime is a one way street because the criminal can put a look out at the end of a one way street to inform them when the police are coming. Recently, there was an officer heading down an alley who lost his radio and a man in the neighborhood who had a cellular phone called for help for the officer. The officer was all alone in an alley with no back up. He stated that is why he believes Athey Alley was established a long time ago. It serves the community on Highland Avenue but it also serves a lot of other communities. When National Avenue was closed for the installation of the roundabout, street traffic was routed through Kern Street, a two-way street. If you closed that alley, it only benefits the people at 400 Highland Avenue. If you are going to close it, they need to pay fair value for it. If a lot in the area is worth \$20,000, divide the size of the lot and if it comes to \$4.00 a square foot and they want 1,500 square feet, they would pay \$6,000. He thanked Council for their time and commended the city on being ranked one of the 15 Best Places in Virginia.

Vice President Wiley asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 6:08 p.m.

Councilor Clark stated there may be a misunderstanding. Athey Alley is not going to be closed. The alley in question is between two houses on Highland Avenue so there is no part of Athey Alley that will be closed.

Vice Mayor Veach moved to approve O-2015-18. The motion was seconded by Councilor McKannan.

Vice President Wiley asked if a report from the police department has been received. Ms. Freeman stated further in the agenda is a motion for Council to appoint the viewers who will go out and complete the assessment of this vacation. All Council is doing tonight is holding the public hearing and closing the public hearing.

Vice President Wiley asked whether public notice was given. Ms. Freeman stated notice was extensively given to the extent that even staff sent out communications and not just the applicant sending it out.

Councilor Hill asked with the notification, is the signage necessary. Planning Director Tim Youmans stated with most public hearings that Council has there is a letter that must be sent to property owners within 300 feet as well as the legal ad in the newspaper and a sign that has to be posted. For this type of request, the advertisement must be in the paper and the letters must be sent out but the ordinance does not require the posting of the sign.

Councilor Hill stated he has traveled down Athey Alley and taken this side alley to Highland Avenue in the past. Each time, he has noticed there are children playing in that backyard. When he does go down Athey Alley to cross Highland to get to Elks, the children are quite visible. His concern is for someone going up Elk and crossing Highland going to Athey Alley, it would be very difficult to see those children until they got right up on them. For safety reasons, he can see why they would want to close it off for those families. If he were a parent with small children, he would want them to be able to play outside rather than having to be out there with them looking for cars going both ways.

Mr. Williams stated based on what the City Manager and Planning Director have described, this item should not read Second Reading and Roll Call Vote. The Public Hearing should be closed and Council can move on to the next item.

1.2.O-2015-21: Second Reading - ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,200,000, TO FINANCE THE COSTS OF CERTAIN CAPITAL IMPROVEMENT PROJECTS (REQUIRES ROLL CALL VOTE)

Kevin Rotty, Public Financial Management (PFM), presented a summary sheet to Council on the proposals received from the Request for Quotation. He stated the City is interested in borrowing \$7 million and historically, this has been borrowed through the public debt market. Given the size of this offering, PFM decided to pursue a private placement market to find a bank that would be interested in the offer and would directly purchase the bonds from the City. PFM received proposals from three banks, Capital One, Cardinal Bank and Union Bank. PFM was looking to lock in the interest rate for the full term of the borrowing which is usually 20 years. Capital One and Cardinal Bank gave an interest rate for 20 years at 3.34% for Capital One and 2.45% for Cardinal. Union Bank gave two options of a 10 year term at 2.3% and a 15-year term at 2.59%. The City could still have the 20-year term with Union Bank but the interest rate would reset or need to be refinanced at the time of the term. The Cardinal Bank proposal is pre-payable at any time. In comparison, if the City were in the public market today, the interest rate would be about 3.0% so this is an extraordinary proposal. Cardinal is a new entrant into the market over the past year looking for these direct purchases. They do it for really high grade issuers. PFM was looking for an attractive bid from them and got it. He offered to answer any questions on the proposals, but if Council is interested in accepting this offer, they have given the City credit approval, so PFM would work with the documentation and close the deal in approximately two weeks. The 2.45% interest rate will be locked in on acceptance of this deal.

Councilor McKannan asked to confirm the recommendation was for the Cardinal Bank offer. Mr. Rotty stated he is correct. Councilor McKannan asked if there was a cap on the reset amount for the Union Bank offer after 10 years for a 20-year term. Mr. Rotty stated the Union Bank offer is a very attractive one and is

consistent with what you typically see. The reason why PFM did not see bids from other better-known banks is that they understood the City's desire to lock in interest rates for the full term. The banks are a little more cautious than the public market. They only see the horizon of 10 years which is what you typically get. In 10 years, the interest rates could be higher or lower. If Union Bank's proposal was at 2.0%, it would be a harder decision. This is a 2.45% rate guaranteed for 20 years. If a better rate is available at any point then the City can refinance but this is a great opportunity.

Councilor Clark asked if the upfront fee of \$6,000 was something Council needed to pay attention to since it is higher than the other two offers or is it small change compared to the interest savings. Mr. Rotty stated that is correct. The total interest is about \$1.9 million over the term of the loan. In the grand scheme of things, the fee is very minor. It is most likely the others have not included the legal fees in the amount yet.

Vice Mayor Veach asked if there would be a fee with an internal refinance with Cardinal. Mr. Rotty stated they have been successful negotiating an interest rate reset with Cardinal with just the documents and no fee but it would depend on where everyone is at that point. The City may want to go out with another financial solicitation.

Vice Mayor Veach asked how the \$7 million is with the City's guidelines on borrowing. Chief Financial Officer Mary Blowe stated this has been wrapped into the parameters and it falls within the policy guidelines. With this being a private bank placement, the City is saving a lot of issuance costs than with a public offering. If it's approved, the resolution gives the manager the authority to sign on behalf of the City.

Vice Mayor Veach stated there is \$1 million in the amount for furniture and fixtures for the new elementary school. When the School Board presented at that the last meeting, they stated they would return funds left over from the \$20 million. He asked what the procedure would be if they returned funds and then needed more for furniture and fixtures. Ms. Blowe stated with the IRS regulations; the City would need to spend the funds within the same borrowing on a different project. If they returned money and the City was able to reduce the \$1 million, it could be used for projects currently within this issuance.

Mr. Rotty stated the resolution before Council gives a not-to-exceed amount and a not-to-exceed interest rate in the second paragraph of 4.5%. He did receive a formal commitment from Cardinal that the 2.45% was approved. The parameters shown are not-to-exceed amounts but, the bond borrowing amount would be \$7,075,000 with a 2.45% interest rate. The resolution just authorizes the City Manager to execute the various documents.

Vice Mayor Veach asked if it was best to approve it as presented or with the exact

amounts. Ms. Freeman stated it would best to approve it as presented because of how it has been advertised. The amounts are underneath the not to exceed amounts in the resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Les Veach, Vice Mayor
SECONDER:	Kevin McKannan, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

2. PUBLIC COMMENTS

Sam Leinbach of 317 Fairmont Avenue asked if anyone asked the opinion of the federal government when considering the change to the City Seal. He stated on June 24th, the Department of Justice (DOJ) sent a message to all city police chiefs and county sheriffs. The cover letter stated that driving a City vehicle or County vehicle with a Confederate decal could place the employee at considerable risk. Police cars and police officers are at additional risk with a Confederate decal when responding to a confrontation as the decal can worsen the situation. The DOJ directive made these recommendations. 1. Remove Confederate Flags from official logos on all police vehicles. 2. Remove Confederate symbols found on shoulder patches, badges and identification cards. 3. Remove Confederate symbols on police department letterhead. Mr. Leinbach stated a person familiar with DOJ recommendations said they are not optional but mandatory. The vast majority of police departments has already complied with these directives and has done so for many years. No longer do protestors throw rocks at police cars or whatever. They use firearms and many with a range of 100 yards or more endangering the occupants of the City vehicles displaying the Confederate Flag and everyone in between. Time of compliance for this directive was only several months and to ignore the DOJ mandate of June 24th would be very, very ill advised. It is still the Confederate Flag on the seal no matter how you do it.

Vice-President Wiley asked if there was anyone else wishing to address Council. Seeing none, he closed the public comments at 6:29 p.m.

3. CONSENT AGENDA

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Elizabeth Minor, Mayor
SECONDER:	John W. Hill, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

3.1.O-2015-23: Second Reading - An Ordinance to Amend Article IX of the Winchester City Code Pertaining to Assemblies, Demonstrations and Parades

- 3.2.O-2015-22:** Second Reading - Rz-15-421 an Ordinance to Rezone Approximately 16.4 Acres of Land Containing Approximately 96 Parcels, Either in Full or in Part, to be Included in the Corridor Enhancement (CE) District; as Depicted on an Exhibit Entitled: "National Ave Proposed CE District" Prepared by Winchester Planning Department on 6/23/2015.
- 3.3.O-2015-25:** Public Hearing - An Ordinance to Vacate a Portion of West Commercial Street Right of Way and Convey it to the Owner(S) of 143 West Commercial Street and 206 West Wyck Street Sv-15-448
- 3.4.R-2015-34:** Resolution Amending Sections 1.6, 3.9J, 6.2, and 7.8, of the City of Winchester's Comprehensive Employee Management System
- 3.5.R-2015-32:** Resolution to Approve the PY2014 Consolidated Annual Performance and Evaluation Report (CAPER)
- 3.6.R-2015-33:** A Resolution that Renews and Amends the Special Event Promotion and Related Services Contract Between the City of Winchester and USA Sports and Marketing, LLC

4. AGENDA

- 4.1.** Motion to remove from the table O-2015-24: AN ORDINANCE AMENDING SECTION 13-1-5 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO BONUS INCENTIVES TO INCREASE ALLOWABLE RESIDENTIAL DENSITY FOR PLANNED UNIT DEVELOPMENTS.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Milt McInturff, Council Member
SECONDER:	Les Veach, Vice Mayor
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

- 4.2.O-2015-24:** - AN ORDINANCE AMENDING SECTION 13-1-5 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO BONUS INCENTIVES TO INCREASE ALLOWABLE RESIDENTIAL DENSITY FOR PLANNED UNIT DEVELOPMENTS. (Amendment Will Establish Additional Density Bonuses and Allow for PUD Projects to be Considered for Up to 27 Units Per Acre.)

Mr. Williams stated in the packet is a Letter of Withdrawal from the attorney representing the applicant in the matter. If Council is amenable to accepting the Letter of Withdrawal, a motion to accept the withdrawal will be required so the item can be removed from future agendas.

Councilor McInturff moved to accept the applicant's Letter of Withdrawal for item O-2015-24.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Milt McInturff, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

- 4.3.** Motion to appoint _____, _____, and _____ as In House Viewers for O-2015-18: 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). SV-15-406

Vice President Wiley stated he would entertain a motion to appoint Perry Eisenach, Allen Baldwin and Kevin Sanzenbacher as In House Viewers for O-2015-18.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Milt McInturff, Council Member
SECONDER:	Evan H. Clark, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

- 4.4.** Motion to appoint Marie Imoh as an "At-Large Ward 4" member of the City School Board to an unexpired four year term commencing October 13, 2015, and ending June 30, 2016.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Les Veach, Vice Mayor
SECONDER:	Milt McInturff, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

5. EXECUTIVE SESSION

5.1. Executive Session

(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 cases Jennifer Joyce Courtenay v. City of Winchester, and Henschel *et. al.* v. City of Winchester, AND

(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 a disciplinary matter involving a City employee based on performance concerns and employment of a public officer, AND*

(3) PURSUANT TO 2.2-3711(A)(29) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION OF THE AWARD OF A PUBLIC CONTRACT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING INTERVIEWS OF BIDDERS OR OFFERORS, AND DISCUSSION OF THE TERMS OR SCOPE OF SUCH CONTRACT, WHERE DISCUSSION IN AN OPEN SESSION WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE PUBLIC BODY. *Specifically including but not limited to RFP #201423*

Vice President Wiley stated he would entertain a motion to add the discussion regarding candidate to the School Board and Economic Development Authority to the Executive Session.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Milt McInturff, Council Member
SECONDER:	Evan H. Clark, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

5.2. Motion to convene into Executive Session

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Elizabeth Minor, Mayor
SECONDER:	Milt McInturff, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

5.3. Motion to reconvene in Open Session.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Milt McInturff, Council Member
SECONDER:	Evan H. Clark, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

5.4.

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 Clark	Aye
Councilor Hill	Aye
Councilor McInturff	Aye
Councilor McKannan	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Vice-Mayor Veach	Aye
Vice President Wiley	Aye
President Willingham	Absent

6. ADJOURNMENT

6.1. Motion to Adjourn.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Evan H. Clark, Council Member
SECONDER:	Milt McInturff, Council Member
AYES:	Clark, Hill, McInturff, McKannan, Minor, Sullivan, Veach, Wiley
ABSENT:	Willingham

The meeting was adjourned at 7:40 PM.

Kari J. Van Diest, CMC
Deputy Clerk of Council