

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
February 10, 2009**

A regular session of the Winchester Common Council was held on Tuesday, February 10, 2009 in the Council Chambers, Rouss City Hall. President Jeffrey Buettner called the meeting to order at 6:57 p.m.

PRESENT: Councilor Michael Butler, Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor; President Jeff Buettner. (9)

ABSENT: None. (0)

MOMENT OF SILENCE - President Buettner led the councilors and citizens in a moment of silence.

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

APPROVAL OF MINUTES – Councilor Veach moved to approve the minutes of the January 5, 2009 Special Meeting, January 7, 2009 Special Meeting, January 13, 2009 Regular Meeting and January 27, 2009 Special Meeting as presented. The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.

REPORT OF PRESIDENT

- Public Hearing: AN ORDINANCE TO APPROVE THE EXCHANGE OF PROPERTY DESCRIBED ON THE PLAT ENTITLED “BOUNDARY LINE ADJUSTMENT BETWEEN THE PROPERTIES OF THE COUNTY OF FREDERICK ET. ALS. AND MADISON LODGE NO. 6, INDEPENDENT ORDER OF ODD FELLOWS SHAWNEE MAGISTERIAL DISTRICT FREDERICK COUNTY, VIRGINIA” CERTIFIED DECEMBER 23, 2008 BY P. DUANE BROWN.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 6:59 p.m.

- Public Hearing: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 8 AND 19 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO PROVISIONS FOR UPPER-STORY HOUSING IN THE HIGHWAY COMMERCIAL, B-2 DISTRICT. TA-08-13

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:00 p.m.

- Public Hearing: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS TA-08-10

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:00 p.m.

- Public Hearing: Real Estate Tax Exemption request by Shenandoah Valley Community Residences for 809 Chelsea Drive.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:00 p.m.

- Chip Pullen, owner of GNC Antiques at 326 South Braddock Street, stated he is part of the community movement to bring Old Jake, the weather vane, back to Winchester. This movement is supported by a petition signed by 400 plus and growing. From a senior citizen walking two blocks with a walker to get to his store to sign the petition to a father and his two sons walking the neighborhood to get 80 folks to sign the petition, the citizens are committed to having Old Jake back on top of 3 South Braddock Street. The property owner of 3 South Braddock Street was allowed to remove Old Jake to have it restored and appraised. They were given an 8 month deadline. After the removal, the citizens learned that Old Jake was not and did not need to be restored. The property owner's intent was to sell Old Jake at auction in New York. The replica made from a mold of the original and constructed of like materials was to be put back on 3 South Braddock Street. He asked what would happen if the property owner was Wal-Mart. City Hall would be in an uproar crying foul. The truth is if Wal-Mart was the property owner, Old Jake would be safely on top of his perch at 3 South Braddock Street. Mrs. Wal-Mart is a die-hard collector of Americana Folk Art and would respect the value of Old Jake to the community of Winchester. Old Jake is bigger than Winchester. Bigger than Virginia. It is a national treasure. It is sacred and belongs to all the people. To quote Nancy Druckman, Director of Southerly's South American Folk Art Department, "it is one of the most important, provocative and appealing examples of American Folk Art". Mr. Pullen presented a copy of the Winchester skyline and stated it is possible that Old Jake will not be there. He then presented a picture of Old Jake and stated without him all you have is another town but with him you have Winchester. He asked if the copper dome of Handley Library will be next. Prices for copper are higher than ever and after all aren't books more important. He asked why we are spending millions restoring Handley High School and stated it is not making our kids any smarter. History is created over time and it is ours to preserve. It is priceless and belongs to no one. Today is February 10th. Eight months to the day since the removal of Old Jake. The property owners of 3 South Braddock Street are non-compliant. They have no fake Jake and no promise of a fake Jake any time soon. A current photo shown to him last Thursday showed a torso and a head. The property owners have no plan in place for the proper placement of the replica. Old Jake could be sold at any moment and the tower at 3 South Braddock Street will have nothing. Urgent action must be taken immediately to stop the sale and order the property owners to return Old Jake to the tower at 3 South Braddock Street. As a community, the citizens have been supporters of all local fire companies. The citizens are grateful for their service, hard work and dedication to the community. For some 200 years, the community has supported the needs of our fire companies and are committed to support their needs and perpetuity. He is sure Charley Rouss would be by his side supporting the efforts to see Old Jake back on top of the building that bears his name. His birthday is tomorrow and what a great gift it would be.

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

6. REPORTS OF STANDING COMMITTEES

6-1 FINANCE AND ADMINISTRATION

Chairman Major presented the following:

- Second Reading, by title: AN ORDINANCE TO APPROVE THE EXCHANGE OF PROPERTY DESCRIBED ON THE PLAT ENTITLED "BOUNDARY LINE ADJUSTMENT BETWEEN THE

PROPERTIES OF THE COUNTY OF FREDERICK ET. ALS. AND MADISON LODGE NO. 6, INDEPENDENT ORDER OF ODD FELLOWS SHAWNEE MAGISTERIAL DISTRICT FREDERICK COUNTY, VIRGINIA” CERTIFIED DECEMBER 23, 2008 BY P. DUANE BROWN.

The motion was 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>
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ADOPT CHAPTER 7 OF THE WINCHESTER CITY CODE PERTAINING TO ELECTIONS
- Motion to approve a resolution regarding the proposed elimination of the Business, Professional, and Occupational License Tax.

City Manager Brannon Godfrey informed Council the proposal was essentially dead for this session of the General Assembly but this resolution sends a clear message that we are united in preserving the funds.

The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.

- Motion to deny a Real Estate Tax Exemption request by Shenandoah Valley Community Residences for 809 Chelsea Drive. (page)

The motion was seconded by Councilor McInturff then unanimously approved by voice-vote.

- Motion to appoint _____ and _____ as members of the Budget Committee for a one year term ending March 31, 2010.

Chairman Major moved to appoint Randy Kremer and Vince Dibenetto as members of the Budget Committee for a one year term ending March 31, 2010. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

6-2 PLANNING AND DEVELOPMENT

Chairman Butler presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 8 AND 19 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO

PROVISIONS FOR UPPER-STORY HOUSING IN THE HIGHWAY COMMERCIAL, B-2 DISTRICT. TA-08-13

The motion was 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>
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- Second Reading, by title, by title: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS TA-08-10

The motion was 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>
Vice-Mayor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Aye

- First Reading, by title: AN ORDINANCE AMENDING AND RE-ENACTING SECTION 5.1-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MUSEUMS AND ART GALLERIES IN THE LIMITED HIGH DENSITY RESIDENTIAL, HR-1 DISTRICT TA-08-15
- First Reading, by title: AN ORDINANCE AMENDING ARTICLE 20 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO PROCEDURES FOR FILING AN APPEAL TO THE BOARD OF ZONING APPEALS TA-08-14
- First Reading, by title: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 5, 7, 8, 9, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO INCENTIVES FOR LEED® CERTIFICATION TA-08-12

- Motion to reappoint Dave Shore as a member of the Planning Commission for a four year term ending December 31, 2012.

The motion was seconded by Councilor Clark then unanimously approved by voice-vote.

- Announce the term expiration of Mark Lore as a member of the Board of Architectural Review and direct the Clerk to advertise the vacancy.

6-3 PUBLIC SERVICES

Chairman Veach presented the following:

- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 30 OF THE WINCHESTER CITY CODE PERTAINING TO THE TREE COMMISSION.
- Motion to approve a resolution authorizing the City Manager to execute the agreement with VDOT for the widening of Papermill Road.

The motion was seconded by Councilor Clark then unanimously approved by voice-vote.

- Motion to re-appoint Patrick Farris as a member of the Tree Commission for a four year term ending December 31, 2012.

The motion was seconded by Mayor Minor then unanimously approved by voice-vote.

- Motion to appoint Kate Christen as a member of the Tree Commission for a four year term ending December 31, 2012.

The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.

6-4 COMMUNITY SAFETY AND SERVICES

Chairman Minor presented the following:

- Motion to forward the nomination of Bradley C. Blase as a member of the Winchester/Frederick Local Emergency Planning Committee.

The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.

6-5 HEALTH, EDUCATION AND WELFARE

Chairman Willingham presented the following:

- Announce the term expiration of Shelly Lee, John Crandell, and Tim Painter as members of the Park and Recreation Board and direct the Clerk to advertise the vacancies.

7. NEW BUSINESS

- Report of the Mayor.

Mayor Minor stated in December 1991, the 100th anniversary of Mr. Rouss' first gift to Winchester, the Common Council passed a resolution designating February 11 as "Charles Broadway Rouss Day". Mr. Rouss assisted this community during the late 1800's by contributing \$30,000, almost half of the price, toward the cost of a new city hall, which was named in his honor. He also donated at least \$25,000 to the city's various fire companies, including the Union Steam Fire Company. That company was later renamed in his honor. Rouss made his fortune in auction houses, and, at its peak, his empire had offices across the world. When he died in 1902, he was worth nearly \$10 million. Rouss, however, didn't keep his fortune to himself and his philanthropy was felt throughout the community. He held parties for the community, left money for public buildings and bought Thatcher Spring (for \$30,000), now Rouss Spring, which allowed the city to build its first water plant. He also gave \$5,000 to the Winchester Memorial Hospital and \$17,500 for the fence and mortuary chapel at Mount Hebron Cemetery where he is buried with his wife, their son and his parents.

Mayor Minor stated in addition, Mr. Rouss funded the erection of "Rouss Hall" at the University of Virginia and Battle Abbey in Richmond. It is with great pleasure that we remember this part of our city's history. A full schedule of events is planned beginning around mid-day with tours and a history presentation here at City Hall and ending with a presentation and brief reception at the Handley Library Auditorium in the early evening. In between, there will be a wreath laying at Mt Hebron Cemetery and an open house at Rouss Fire Company. I hope the public will look at the schedule on the City's website and join us in commemorating the generous contributions that Charley Rouss made to this community. A very special thank you to all who have made this event possible.

Mayor Minor stated that yesterday, several of us traveled to Richmond to meet with delegate Sherwood and Senator Vogel to personally emphasize the City's need to access the federal economic stimulus money that will be administered by the states. Both of our legislators eagerly await the final legislation from Congress to establish the rules and formulas for disbursing this money, at which time they promised to work with us to facilitate the funding of the "shovel-ready" critical infrastructure projects we have identified. The main focus of this General Assembly session has been balancing the budget. And although they are already past the halfway point of the short session, both houses need the new state revenue forecast to be released next week and the details of the federal stimulus package to be able to complete the budget.

Mayor Minor stated she is thankful that our Delegate represents us with the added influence of a Budget Conferee and that our Senator is so responsive and understanding of the economic significance that the City of Winchester has on the region. We are well-represented in Richmond.

Mayor Minor stated she would like to take a moment of personal privilege and wish a happy birthday to someone who does so much for this council. Deputy Clerk Kari Van Diest celebrates a milestone birthday tomorrow. From all of us Kari, Happy Birthday!

- President Buettner addressed Mr. Pullen regarding his comments during the public hearings. President Buettner stated the difference between Handley Library, Handley High School and Rouss Fire Hall is the library and the high school are publically owned buildings. The fire hall is an independent organization, privately owned and incorporated. He does not know of any mechanism that would give this body the authority to step in and influence the issue one way or the other besides as private citizens voicing their opinion.

- Vice-President Major moved to convene in executive session for consultation with legal counsel at 7:21 p.m. The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.

Upon returning at 7:35 p.m., council members approved a motion to return to open meeting and 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:

MEMBER	VOTE
Councilor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Councilor Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye

8. ADJOURNMENT

Councilor Willingham moved to adjourn the meeting at 7:36 p.m. *The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council