

**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
DECEMBER 8, 2009**

A regular session of the Winchester Common Council was held on Tuesday, December 8, 2009 in the Council Chambers, Rouss City Hall. President Jeffrey Buettner called the meeting to order at 6:59 p.m.

**PRESENT:** President Jeff Buettner; Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor (8)  
**ABSENT:** Vice-Mayor Michael Butler (1)

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

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

**APPROVAL OF MINUTES** – October 6, 2009 Community Safety/Public Services Committee Meeting, October 27, 2009 Planning & Development Committee Meeting, and November 10, 2009 Regular Meeting

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

**EXECUTIVE SESSION:** Motion to convene in Executive Session pursuant to 2.2-3711(A)(3) and (7) of the Code of Virginia for consultation with legal counsel and discussion of a personnel matter related to the appointment of a public officer and the terms of an employment contract.

Councilor Hill moved to convene in executive session. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

Councilor Veach moved to reconvene in open session and to close the executive session that was covering the City Manager interviewing process at 7:08 p.m. *The motion was seconded by Councilor Willingham 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:*

MEMBER	VOTE
Vice-Mayor Butler	Absent
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

Vice-President Major moved to approve an employment contract with James O'Connor and authorize the President of Council to execute it on behalf of Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

### **REPORT OF THE MAYOR**

Mayor Minor expressed her gratitude to Karen Helm, the Old Town Development Board and all of the volunteers that helped with the Christmas parade. It was a wonderful evening and we are all very happy to bring the tradition back to Old Town. She stated bad weather is expected this evening and the City crews are well on the way to take care of the streets. On behalf of City Council, Mayor Minor wished everyone a Merry Christmas and a safe, healthy New Year.

### **REPORT OF THE CITY MANAGER**

Assistant City Manager Anne Lewis stated there was no report to present from the City Manager.

### **REPORT OF THE CITY ATTORNEY**

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

### **PUBLIC HEARINGS**

**CU-09-302:** Conditional Use Permit - Fort Loudoun, LLC for a conversion of ground floor nonresidential use to residential use at 26A Wolfe St zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. – Ward 1

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:13 p.m.*

Councilor Willingham moved to approve CU-09-302. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**CU-09-298:** Conditional Use Permit - Kenisha Bridgemohan, dba Island Delights Caribbean Restaurant, LLC, for nightclub use at 821 North Loudoun Street, Unit A zoned Highway Commercial (B-2) District. – Ward 2

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

Councilor Clark moved to approve CU-09-298. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

**CU-09-308:** Conditional Use Permit - Richard Hoffman for a two-unit townhouse at 35 West Hart Street zoned Limited High Density Residential (HR-1) District. – Ward 3

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:15 p.m.*

Vice-President Major moved to approve CU-09-308. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**R-2009-59:** Resolution – Approval to submit application to VDOT for a Federal Enhancement Grant for the next phase of the Green Circle Trail. City is required to fund 20% (\$200,000) of the project to be requested in the FY11 CIP.

Ms. Lewis stated City Manager Robert Noe asked that she remind Council the money has not been appropriated for this and would need to be in the budget process.

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:16 p.m.*

Councilor Clark moved to approve R-2009-59. *The motion was seconded by Councilor McInturff than passed 7/1 with Council Willingham voting in the negative.*

## **PUBLIC COMMENTS**

*No citizens came forward to address Council concerning other issues and the President declared the public hearing closed at 7:17 p.m.*

## **AGENDA**

**O-2009-37:** First Reading - AN ORDINANCE TO AMEND AND RE-ENACT SECTION 16.32 OF THE WINCHESTER CITY CODE REGARDING CONSUMPTION OF ALCOHOLIC BEVERAGES AND POSSESSION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES BY ADDING SECTION (c) - Permitting the use of alcohol (with restrictions) within the Active Living Center in Jim Barnett Park for a 6 month trial period.

**O-2009-38:** First Reading – AN ORDINANCE TO APPROVE THE APPLICATION OF THE ISLAMIC SOCIETY OF WINCHESTER FOR TAX EXEMPT STATUS BY RELIGIOUS ORGANIZATION PURSUANT TO 27-33 OF THE WINCHESTER CITY CODE - Approving Tax Exempt Status for property at 601 Woodstock Lane. The property was assessed at \$224,800 and would create a loss of revenue of \$1,730.96 per year at the current tax rate.

**O-2009-39:** First Reading - AN ORDINANCE TO AMEND ARTICLES 1 AND 5.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO STANDARDS FOR VARIOUS TYPES OF DWELLINGS IN THE LIMITED HIGH DENSITY RESIDENTIAL (HR-1) DISTRICT **TA-09-323**

**O-2009-40:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT CHAPTER 26 OF THE WINCHESTER CITY CODE PERTAINING TO SIDEWALK CAFES – Increase fees for sidewalk cafes.

**R-2009-58:** Resolution – Authorization for City of Winchester to serve as Local Lead Agency for Infant & Toddler Connection of the Shenandoah Valley. FY10 Supplemental Appropriation for \$240,873 to be offset by State and Federal Governments.

Vice-President Major moved to approve R-2009-58. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2009-60:** Resolution – Extending the probation period for new employees of the Emergency Communications Center to 1 year and of the Police Department to 18 months.

Councilor Willingham moved to approve R-2009-60. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**R-2009-61:** Resolution – Approval to submit application for the 2010 Federal Emergency Management Agency's (FEMA) Annual Safer Grant to provide salary and benefits for six new firefighter positions. The grant is for 2 years and the City is required to maintain positions 1 year after. Initial cost to the City would be for pre-employment medical expenses and uniforms.

Councilor Veach moved to approve R-2009-61. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2009-62:** Resolution – Approval for a request to apply for an American & Reinvestment Act Grant for Shenandoah Valley Watershed Community Ecosystem Restoration and Enhancement. The funding will range between \$30,000-\$70,000 and be used for the removal and planting of trees.

Councilor Clark moved to approve R-2009-62. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**R-2009-63:** Resolution – Authorization for the expenditure of funds and the organization and scheduling of an annual Legislative Dinner.

Mayor Minor moved to approve R-2009-63. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**Appointment:** Jeffery Rives as a member of the Parking Authority for a five year term expiring May 31, 2014

Councilor Willingham moved to approve the appointment. The motion was seconded by Councilor Veach then unanimously approved by voice-vote.

**Executive Session:** Motion to convene in Executive Session pursuant to 2.2-3711(a)(7) for consultation with legal council concerning a matter in litigation to discuss case status, litigation strategy, and needs assessment; and the provision of legal advice concerning a restructuring initiative; and the potential legal ramifications concerning a proposed real estate transaction; and Pursuant to 2.2-3711(a)(5) for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, with regard to tax issues related to the proposed location or expansion of said facilities.

Councilor Willingham moved to convene into executive session at 7:21 p.m. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

Councilor Willingham moved to reconvene in open session at 7:54 p.m. *The motion was seconded Councilor McInturff 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:*

MEMBER	VOTE
Vice-Mayor Butler	Absent
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

Vice-President Major moved to authorize the President of Council to execute an engagement letter with Thomas Dick to provide consultation and legislative liaison services. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**ADJOURNMENT**

Councilor Willingham made a motion to adjourn the meeting at 7:55 p.m. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*