

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
August 10, 2010**

A regular session of the Winchester Common Council was held on Tuesday, August 10, 2010 in the Council Chambers, Rouss City Hall. Vice-President Art Major called the meeting to order at 6:59 p.m.

PRESENT: Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor (7)
ABSENT: President Jeff Buettner; Vice-Mayor Michael Butler (2)

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

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

APPROVAL OF MINUTES – June 29, 2010 Work Session and July 13, 2010 Regular Session

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

REPORT OF THE MAYOR

Proclamation: “Fill the Boot” for Muscular Dystrophy

Mayor Minor welcomed and introduced the new Fire Chief Scott Cullers. She presented the “Fill the Boot” proclamation to Chief Cullers.

R-2010-48: Resolution – Honoring the retirement of Charles J. “Jim” Allen

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

Mayor Minor presented the resolution to Mr. Allen and thanked him for his service to the City.

Mayor Minor announced the INSIGHT Academy will begin Thursday night with exciting sessions dealing with public safety, utilities, public schools and much more. She encouraged all citizens to experience this very informative program.

Mayor Minor asked everyone to make plans now to attend the Cal Ripken 10-Year-Old World Series Kickoff Celebration on Friday, August 13, 2010 from 6-10 pm.

Mayor Minor expressed her gratitude to Trish Ridgeway and her staff for the wonderful fundraiser held on Saturday evening. Enough money was raised to delete two furlough days for the library staff.

REPORT OF THE CITY MANAGER

City Manager James O'Connor stated he did not have a report.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated each councilor received a revised text amendment in response to the questions raised by Councilors Major and Willingham at the work session in regards to the Certificates of Appropriateness.

PUBLIC HEARINGS

O-2010-25: Second Reading / Closing of Bids / Staff Recommendation / Franchise Award – AN ORDINANCE TO GRANT FRANCHISE TO USE PUBLIC PROPERTY FOR THE PROVISION OF ELECTRIC SERVICE TO THE CITY OF WINCHESTER

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

When asked, the deputy clerk presented all bids received. Vice-President Major closed the bids at 7:12 p.m.

Vice-President Major opened and read the bid received from Shenandoah Valley Electric Cooperative.

Vice-President Major asked for recommendations from staff. Mr. O'Connor recommended accepting the bid. Mr. Williams stated he supports the city manager's recommendation.

Councilor Veach moved to award the franchise to Shenandoah Valley Electric Cooperative as the highest responsible bidder and adopt the ordinance without substantial variation except to insert the name of the accepted bidder. *The motion was seconded by Councilor Clark 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:*

<u>MEMBER</u>	<u>VOTE</u>
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	Absent

O-2010-26: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-130 AND DELETE SECTION 27-131 OF THE WINCHESTER CITY CODE PERTAINING TO PROBATE TAX AND FEE FOR LIST OF HEIRS

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

Councilor Veach moved to adopt O-2010-26. *The motion was seconded by Councilor Clark 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:*

<u>MEMBER</u>	<u>VOTE</u>
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	Absent

O-2010-27: Second Reading – AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2010

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

Councilor Veach moved to adopt O-2010-27. *The motion was seconded by Councilor Clark 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:*

<u>MEMBER</u>	<u>VOTE</u>
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	Absent

O-2010-28: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT ARTICLE X SECTIONS 2-219 AND 2-220 OF THE WINCHESTER CITY CODE REGARDING THE INDUSTRIAL DEVELOPMENT AUTHORITY

No citizens came forward to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:17 p.m.

Councilor Willingham moved to adopt O-2010-28. *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:*

<u>MEMBER</u>	<u>VOTE</u>
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	Absent

O-2010-29: Second Reading – AN ORDINANCE TO AMEND ARTICLE 6 OF THE WINCHESTER ZONING ORDINANCE TO ADD RESTAURANTS AS USES PERMITTED WITH A CONDITIONAL USE PERMIT WITHIN THE RESIDENTIAL OFFICE (RO-1) DISTRICT

No citizens came forward to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:17 p.m.

Councilor Willingham moved to adopt O-2010-29. *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:*

<u>MEMBER</u>	<u>VOTE</u>
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	Absent

O-2010-30: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT AN ORDINANCE FOR SPOT BLIGHT ABATEMENT FOR THE PROPERTY KNOWN AS 119-129 NORTH LOUDOUN STREET IN ACCORDANCE WITH SECTION 6-133 OF THE WINCHESTER CITY CODE AND § 36-49.1:1 OF THE CODE OF VIRGINIA (1950), AS AMENDED SBA-09-01 (Taylor Hotel)

No citizens came forward to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:18 p.m.

Mayor Minor moved to adopt O-2010-30. *The motion was seconded by Councilor Hill 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:*

<u>MEMBER</u>	<u>VOTE</u>
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	Absent

O-2010-34: Second Reading – AN ORDINANCE TO ADD, AMEND, AND RE-ENACT SECTION 14-69 OF THE WINCHESTER CITY CODE PERTAINING TO THE DEPOSIT OF COIN REQUIRED; OVERTIME PARKING

Donald Price of 114 Stonebrook Road stated he is a Frederick County resident and the Executive Director for Access Independence which is the center for independent living that serves this region. He hopes the City realizes that in order to enact an ordinance of this type, accessibility is going to have to be a strong factor in putting in parking meters for people with restrictions in reaching, turning knobs and finding slots. He would also like for the City to put on their website a listing of where the ADA compliant parking spots are so that people can find them. He couldn't identify all of them in the city. If this is a good revenue generating idea for the City, he suggested putting in additional spots as well.

Todd Golding of 1027 Kinsel Drive stated this is about access and equality from an economic stand point. There are people in this community who are disabled and can easily afford to pay at the parking meters and in the parking garages but there are others who cannot. As such, he has to ask if it is fair to those who cannot afford to pay at a parking meter to be excluded from access to downtown Winchester. He also looks at it from a quality standpoint. He has a list of vehicles that license plates would be exempt from this ordinance. Those would be vehicles with license plates with the Purple Heart Insignia or former Prisoners of War. While he does respect those people, he has to ask if it is fair to exclude them from paying these fees while other people who may have much more limited resources have to pay these fees and are disabled. To him, it really does come down to access and equality and it is a decision that the community as a whole should have to answer and decide if it is a part of our values. He is thankful he is not one of the people on Council who have to make that decision.

John McAniff of 652 Virginia Avenue stated he does not think it is right that the City wants to put meters in handicapped parking places. A lot of people who are handicapped have limited accessibility and don't have that much money. You will have to figure something out if the parking garage is automated. The State of Virginia gives out the handicapped tags and placards for those who are handicapped and does not require them to pay anything. In fact, unless the city has an ordinance saying the handicapped have to pay at regular meters, the State of Virginia exempts anyone with a handicapped tag from parking at a meter. He does not have much money. He lives off a veteran's disability and social security. He does not have the money to put into meters and walk great distances. When the City did Cameron and Piccadilly Streets, they eliminated two handicapped spaces. One was right next to Clarke County Bank and the other was on Cork Street as you come around Cameron by the offices there. At both of these places, the handicapped signs were never put back and parking meters were installed. It seems the City is trying to nickel and dime everybody to death. If the City needs the money that bad, why is it paying \$49,500 for the closing of Millwood Avenue? Let Shenandoah University pay for that so you don't have to nickel and dime everyone.

Kathleen Clark of 143 Castle Bridge Court apt. 4 stated she is an Outreach and Advocate Specialist at Access Independence. She urged Council to vote against exempting the City of Winchester and the Winchester Parking Authority from the four free hours of parking in a meter or time restricted spaces for those who have disabled placards or plates. She believes such an action would place an undue financial hardship on visitors and residents with disabilities. She somewhat agrees with Ms. Lewis's statement in the Winchester Star that handicapped designation does not indicate a socio-economic status. As a driver, she fully agrees with Mr. Golding's statement about people with disabilities having many expenses that others do not. She speaks from 20 years of experience on the subject. It is not uncommon for a vehicle with accessibility features to be twice as expensive as a vehicle purchased right off the lot. Last year alone, she spent nearly \$700.00 maintaining the wheelchair lift on her vehicle. That is more than people living on SSI receive in an entire month. If this change is enacted, the City of Winchester will be placing yet another barrier in front of a population that faces enough as it is.

No further citizens came forward to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:27 p.m.

Councilor Willingham moved to table O-2010-34. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

O-2010-35: Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-64 OF THE WINCHESTER CITY CODE PERTAINING TO METER ZONES ESTABLISHED

No citizens came forward to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:28 p.m.

Councilor McInturff moved to adopt O-2010-35. *The motion was seconded by Councilor 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:*

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Butler	Absent
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Nay
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Nay
President Buettner	Absent

CU-10-211: Conditional Use Permit - Request of George Solano dba George's Pizza and Subs for a conditional use permit for a pool and billiard room at 1202 Berryville Avenue (Map Number 177-02-11) zoned Highway Commercial (B-2) District.

George Solano of George's Pizza asked Council to extend the hours for special events.

Planning Director Tim Youmans stated an alternate motion including the changes made at the July 27, 2010 Work Session regarding lighting and the extension of hours is in the staff report.

No further citizens came forward to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:31 p.m.

Councilor Willingham moved to approve CU-10-211. *The motion was seconded by Mayor Minor.*

Councilor Willingham moved to amend the hours of operation to 1 a.m. on Saturday and Sunday mornings. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

The amended motion was then unanimously approved by voice-vote.

PUBLIC COMMENTS - *No citizens came forward to address Council and the Vice-President declared the public comments closed at 7:33p.m.*

CONSENT AGENDA

O-2010-42: First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 2-7 OF THE WINCHESTER CITY CODE TO FACILITATE A CODE UPDATE / TEXT REVISION PERTAINING TO THE WINCHESTER FIRE AND RESCUE DEPARTMENT

O-2010-36: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 14, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CERTIFICATES OF APPROPRIATENESS TA-10-247

O-2010-37: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLE 17 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO NONCONFORMING USES TA-10-332

O-2010-38: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, 7, 8, 9, 13, 15, 15.1 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ASSISTED LIVING FACILITIES TA-10-333

O-2010-39: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 20 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE BOARD OF ZONING APPEALS TA-10-334

O-2010-40: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FAMILY DAY HOMES TA-10-337

O-2010-41: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 8 AND 10 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS AND USE PROVISIONS FOR BODY-PIERCING SALONS AND TATTOO PARLORS TA-10-340

O-2010-43: First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-2, 25-17, AND 25-23 OF THE WINCHESTER CITY CODE PERTAINING TO SPECIAL ASSESSMENTS PARTICULARLY IN THE DOWNTOWN DISTRICTS

O-2010-44: First Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 16-10 OF THE WINCHESTER CITY CODE PERTAINING TO PUBLIC PROFANITY AND DRUNKENNESS TO PROVIDE FOR REIMBURSEMENT FOR EXPENSES INCURRED BY THE CITY FOR PUBLIC INEBRIATE CENTER USAGE

O-2010-45: First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-19 OF THE WINCHESTER CITY CODE REGARDING REAL ESTATE TAX EXEMPTION FOR THE ELDERLY AND DISABLED

O-2010-46: First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-43 OF THE WINCHESTER CITY CODE REGARDING CERTAIN HOUSEHOLD GOODS AND PERSONAL EFFECTS EXEMPT FROM LOCAL TAXATION

Councilor McInturff moved to remove O-2010-46 from the Consent Agenda. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Vice-President presented O-2010-46 for first reading.

Commissioner of Revenue Ann Burkholder presented a brief summary of the ordinance. She stated the definition of antique vehicles according to state code is at the discretion of the owner. Currently, the City taxes any vehicle 18 years or older at \$200.00. If Council exempts antique vehicles, it would be unfair taxation. If Council chooses to tax antique vehicles, the vehicles will be taxed on a combination of the NADA value, the purchase price, and the insured value.

Councilor McInturff moved to remove the words for antique vehicles in O-2010-46. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

Councilor McInturff moved to forward O-2010-46 for a second reading. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Mayor Minor moved to forward the Consent Agenda for a second reading. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

NEW BUSINESS

R-2010-44: Resolution – Amendment of Frederick-Winchester Service Authority Articles of Incorporation

Councilor Willingham moved to approve R-2010-44. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

R-2010-45: Resolution – Virginia Department of Fire Programs FY11 Training Mini Grant Application

Councilor Veach moved to approve R-2010-45. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

R-2010-46: Resolution – Virginia Department of Fire Programs FY11 VFIRS Hardware Grant Application

Councilor Willingham moved to approve R-2010-46. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

R-2010-47: Resolution – Approval of proposal from OakCrest Companies for redevelopment of 29-31 and 33-35 East Boscawen Street (former Social Services Building)

Mayor Minor moved to approve R-2010-47. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Approval: Fee adjustment for certain Park and Recreation programs, services, and facilities

Councilor Clark moved to approve the fee adjustments. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

Appointment: Motion to appoint Rebecca Ebert as a Non-Profit Sector member and Bill Hottel as a Private Sector member of the Winchester-Frederick County Tourism Board for a three year term expiring June 30, 2013.

Councilor Willingham moved to approve the appointments to the Tourism Board. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

Appointment: Motion to re-appoint Dario Savarese as a Private Sector member of the Winchester-Frederick County Tourism Board for a three year term expiring June 30, 2013.

Mayor Minor moved to approve the re-appointment to the Tourism Board. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Appointment: Motion to re-appoint Allyson Pate as a member of the Social Services Advisory Board for a four year term expiring March 31, 2014.

Councilor Clark moved to approve the re-appointment to the Social Services Advisory Board. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

Appointment: Motion to appoint Jeff Webber and William Bayliss and re-appoint John “Shep” Campbell, Harry Smith, and John Schroth as members of the Handley Board of Trustees for a six year term expiring June 30, 2016.

Councilor Clark moved to approve the appointments to the Handley Board of Trustees. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

Appointment: Motion to re-appoint John Schroth as a member of the Frederick-Winchester Service Authority for a three year term expiring August 31, 2013.

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

Motion to direct the Clerk to prepare a Certificate of Appreciation for Ming Chan for serving as a member of the Social Services Advisory Board.

Councilor Willingham moved to approve the Certificate of Appreciation. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Announcement: Term expiration of Kim Burke, Michael Miller, Kimberly Sowers, and David Spence as members of the Old Town Development Board effective October 31, 2010. Ms. Burke, Mr. Miller, and Mr. Spence are eligible for re-appointment. Ms. Sowers is not eligible.

ADJOURNMENT

Councilor Willingham moved to adjourn the meeting at 7:47 p.m. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council