

**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
October 12, 2010**

A regular session of the Winchester Common Council was held on Tuesday, October 12, 2010 in the Council Chambers, Rouss City Hall. President Jeff Buettner called the meeting to order at 7:00 p.m.

**PRESENT:** President Jeff Buettner; Vice-Mayor Michael Butler; Councilor Evan Clark, John Hill, Milt McInturff and John Willingham; Vice-President Art Major (7)

**ABSENT:** Mayor Elizabeth Minor; Councilor Les Veach (2)

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

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

**APPROVAL OF MINUTES** – September 14, 2010 Regular Session and September 28, 2010 Work Session

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

**REPORT OF THE MAYOR** – Mayor Minor was not present at the meeting to present a report.

**REPORT OF THE CITY MANAGER**

City Manager Jim O'Connor stated he did not have a report and offered to answer any questions from Council.

**REPORT OF THE CITY ATTORNEY**

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

**PUBLIC HEARINGS**

**O-2010-47:** Second Reading: AN ORDINANCE TO AMEND AND RE-ADOPT CHAPTER 27, ARTICLE II, DIVISION I OF THE WINCHESTER CITY CODE REGARDING IMPOSITION OF REAL PROPERTY TAX

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:01 p.m.*

Vice-President Major moved to adopt O-2010-47. *The motion was seconded by Councilor Willingham 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	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Absent
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2010-52:** Second Reading: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-8 OF THE WINCHESTER CITY CODE REGARDING REFUNDS OF ERRONEOUSLY ASSESSED TAXES

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:02 p.m.*

Councilor Willingham moved to adopt O-2010-52. *The motion was seconded by Vice-President Major 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	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Absent
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2010-48:** Second Reading: AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 27-31 THROUGH 27-37 OF THE WINCHESTER CITY CODE REGARDING APPLICATION, REVOCATION AND REVIEW OF PROPERTY TAX EXEMPTION BY DESIGNATION AND CLASSIFICATION

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:03 p.m.*

Vice-Mayor Butler moved to adopt O-2010-48. *The motion was seconded by Councilor Willingham.*

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

**O-2010-53:** Second Reading: AN ORDINANCE TO APPROVE AND ADOPT A SPOT BLIGHT ABATEMENT PLAN AND TO DECLARE A PUBLIC NUISANCE PURSUANT TO SECTION 6-133 OF THE WINCHESTER CITY CODE, FOR THE STRUCTURE(S) AND PROPERTY LOCATED AT 319-321 SOUTH KENT STREET

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:04 p.m.*

Vice-Mayor Butler moved to adopt O-2010-53. *The motion was seconded by Vice-President Major 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:*

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

**O-2010-50:** Second Reading: AN ORDINANCE TO AMEND AND REENACT SECTION 18-9 OF THE WINCHESTER ZONING ORDINANCE PERTAINING FENCES TA-10-386

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:04 p.m.*

Vice-President Major moved to adopt O-2010-50. *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:*

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

**O-2010-51:** Second Reading: AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, 7, 13, 15, 16.1, 17, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO URBAN GARDEN DEFINITIONS AND USE PROVISIONS TA-10-418

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:05 p.m.*

Vice-Mayor Butler moved to adopt O-2010-51. *The motion was seconded by Vice-President Major 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:*

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

**O-2010-54:** Second Reading: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WINCHESTER, VIRGINIA, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$14,110,000, TO PROVIDE FUNDS FOR CERTAIN IMPROVEMENTS TO THE CITY'S WATER AND SEWER SYSTEMS

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

Vice-President Major moved to adopt O-2010-54. *The motion was seconded by Councilor Willingham 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:*

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

**CU-10-410:** Conditional Use Permit - Request of Omps Funeral Home, Inc. for a conditional use permit for a crematory at 1560 Amherst St (Map Number 150-15-3) zoned Residential Office (RO-1) District.

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

Vice-President Major moved to approve CU-10-410. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**CU-10-485:** Conditional Use Permit - Request of Johnny Lanzetta dba Giovanni's for a conditional use permit for nightclub use at 21 North Loudoun Street (Map Number 193-01-B-7) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:07 p.m.*

Vice-President Major moved to approve CU-10-485. The motion was seconded by Councilor Clark the passed 6/1 with Vice-Mayor Butler voting in the negative.

## **PUBLIC COMMENTS**

Peter Buchbauer of 1625 Van Couver Street stated he co-owns property at 110 N. Braddock Street which houses the offices of his law firm. On October 1<sup>st</sup> without any prior notice or consultation, Public Works personnel from the City removed two of four stop signs at the intersection of North Braddock Street and Amherst Street. In the last year, that intersection has seen a four way traffic light, two way stop signs, four way stop signs, and now a stop while pedestrians are in crosswalk sign. He cannot understand the thought process behind the removal of the four way stop signs which enhance traffic movement while providing a modicum of safety as drivers and pedestrians cross North Braddock Street. When he telephoned City personnel to discover the rationale, he reached many voice mail boxes. He left messages on a daily basis for the City Manager and finally received a call back on the fourth day of message leaving. Previously, the City Engineer of Traffic advised him that he was instructed to make the change by the City Manager. When he finally did speak to the City Manager, he indicated that he personally observed the intersection for 45 minutes one day and discovered that 80% of drivers on North Braddock Street were not making full legal stops at the intersection. Some how the lack of compliance generated the decision to eliminate the four way stop signs. That is ridiculous. He asked since many people fail to feed their parking meters, should we eliminate them too. Should the speed limit signs be removed since many people speed in town? The fact remains that there is an undue level of activity through the intersection because of the Braddock Street Autopark. Coming east on Amherst Street, the line of sight is substantially impaired because of trees in front of the Owen and Truban Law Offices. When an SUV, minivan or pick-up truck is parked along the street, it is a calculated risk at best to safely cross North Braddock. When he spoke to the City Manager about this, he had not even noticed that line of sight problem. Heading out west on Amherst out of the autopark also presents line of sight issues depending upon the vehicles parked on North Braddock. Slowing the traffic down on North Braddock by stop signs eliminated the risk because cars did stop to permit other vehicles to cross North Braddock. The additions of stop when pedestrians are present in crosswalk signs are at best a joke. The presence of those signs does nothing to slow down traffic between City Hall and the Court House. The last 7 times he has crossed that intersection, he has made a point to cross in that crosswalk and on no occasion did a car stop including twice today. That is not going to make the intersection safer for vehicles traveling. At times, someone wanting to go south on Braddock Street has to turn right towards Piccadilly Street and go around the block to be able to head south because of the traffic flow. He

respectfully requested Council to direct the City Manager to replace the stop signs on North Braddock Street at the intersection of Amherst Street as soon as possible; tomorrow morning would be a good start. He also requested Council direct the City Manager to refrain from making other changes from traffic signals in the city without adequate consultation with neighboring uses and upon more than his 45 minutes of personal observation.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:11 p.m.*

## **CONSENT AGENDA**

### **AGENDA**

**O-2010-55:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-5 OF THE WINCHESTER CITY CODE REGARDING THE “MANNER OF CREDITING PAYMENT”

President Buettner presented O-2010-55 for First Reading.

**O-2010-56:** First Reading - AN ORDINANCE TO CONDITIONALLY REZONE APPROXIMATELY 0.496 ACRES OF LAND AT 301, 303, 307 AND 309-311 SOUTH CAMERON STREET (Map Numbers 193-01-K-10, 11, 12 & 13) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY. RZ-10-454

President Buettner presented O-2010-56 for First Reading.

**O-2010-57:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 14-70 OF THE WINCHESTER CITY CODE PERTAINING MOTOR VEHICLES AND TRAFFIC

President Buettner presented O-2010-57 for First Reading.

**O-2010-59:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 23-3 AND 23-6 OF THE WINCHESTER CITY CODE PERTAINING TO PROHIBITION OF SMOKING

President Buettner presented O-2010-59 for First Reading.

**R-2009-57:** Resolution – Authorizing the Winchester Police Department to develop a youth center

Vice-President Major moved to approve R-2009-57. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**R-2010-52:** Resolution – Approval of Virginia Resources Authority Loan for improvements at the Water Treatment Plant

Vice-President Major moved to approve R-2010-52. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**R-2010-59:** Resolution – Authorization for new City Logo

Councilor McInturff moved to approve R-2010-59. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**R-2010-60:** Resolution – Approval to apply for the VML Grant Funding for safety upgrades

Vice-President Major moved to approve R-2010-60. *The motion was seconded by Councilor McInturff then unanimously approved by voice-vote.*

**Motion:** Approval to nominate Justin Ferrell, Matt Mintschenko, Doug Watson, and Randy Collins as members of the Local Emergency Planning Committee

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

**Motion:** Approval to re-appoint Cary Brubaker as a member of the Handley Library Board for a four year term expiring November 30, 2014.

Councilor Willingham moved to re-appoint Ms. Brubaker. *The motion was seconded by Councilor McInturff then unanimously approved by voice-vote.*

**Motion:** Approval to appoint Jim O'Connor as the Elected or Appointed Official member, Millard "Buddy" Hall as the Community Services Board member, Julie VanWinkle as the Juvenile Court Services member, Dr. Charles Divine as the Department of Health member, Carla Taylor as the Department of Social Services member, Dr. Richard Leonard as the Local School Division member, Kelly Bober as the Private Organization or Association of Providers for Children or Family Services member, Debbie Lewis as the Parent Representative member and Paul Scardino as the Other Organization member of the Community Policy and Management Team.

Vice-President Major moved to approve the appointments to the Community Policy and Management Team. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**Announcement:** Term expiration of Frank Sublett and William Wiley as members of the Planning Commission effective December 31, 2010 and direct the Clerk of Council to advertise the vacancies. Mr. Sublett and Mr. Wiley are eligible for re-appointment.

**Announcement:** Term expiration of Christopher Molden as a member of the Board of Building Code Appeals effective December 31, 2010 and direct the Clerk of Council to advertise the vacancy. Mr. Molden is eligible for re-appointment.

**Announcement:** Term expiration of Richard Hardison and Aldo Vega as members of the Winchester Transportation Safety Commission effective December 31, 2010 and direct the Clerk of Council to advertise the vacancies. Mr. Hardison and Mr. Vega are eligible for re-appointment.

**Announcement:** Term expiration of Chris Scully and Allison Major as members of the Tree Commission effective December 31, 2010 and direct the Clerk of Council to advertise the vacancies. Ms. Major is eligible for re-appointment. Ms. Scully is not eligible.

**Announcement:** Term expiration of Walter “Skeeter” Knee as a member of the Community Development Committee effective December 31, 2010 and direct the Clerk of Council to advertise the vacancy. Mr. Knee is eligible for re-appointment.

President Buettner directed Mr. O’Connor and Utilities Director Perry Eisenach to look at the intersection of Braddock and Amherst Streets and report back to Council at the Work Session.

## **EXECUTIVE SESSION**

MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR CONSULTATION WITH LEGAL COUNSEL TO RECEIVE LEGAL ADVICE AND STATUS UPDATE CONCERNING PENDING OR POTENTIAL LITIGATION AND PURSUANT §2.2-3711(A)(3) OF THE CODE OF VIRGINIA FOR CONSIDERATION OF THE DISPOSITION OF AN INTEREST IN REAL PROPERTY WHERE THE PUBLIC DISCLOSURE OF SUCH INFORMATION COULD HAVE AN ADVERSE EFFECT ON THE CITY’S BARGAINING ABILITY.

Vice-President Major moved to convene into executive session at 7:17 p.m. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Councilor McInturff moved to reconvene in open session at 8:38 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	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Absent
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**Vice-Mayor Butler and Councilor Willingham both stated they could only certify the portions of executive session they were present for.**

**ADJOURNMENT**

Councilor Willingham moved to adjourn the meeting at 8:38 p.m. *The motion was seconded by Councilor McInturff then unanimously approved by voice-vote.*

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Kari J. Van Diest  
Deputy Clerk of the Common Council