

**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
July 12, 2011**

A regular session of the Winchester Common Council was held on Tuesday, July 12, 2011 in the Council Chambers, Rouss City Hall. President Jeff Buettner called the meeting to order at 7:00 p.m.

**PRESENT:** President Jeff Buettner; Councilor Evan Clark, John Hill, John Tagnesi and John Willingham; Vice-President Art Major; Vice-Mayor Milt McInturff; Mayor Elizabeth Minor (8)

**ABSENT:** Councilor Les Veach (1)

**INVOCATION** – Reverend Clyde Nelson of Market Street United Methodist Church delivered the invocation.

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

**APPROVAL OF MINUTES** – June 14, 2011 Regular Meeting, June 21, 2011 Work Session, and June 28, 2011 Work Session

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

Vice-President Major moved to add the following two items to the agenda:

1. Motion to conclude the executive session pertaining to the Interim City Manager search announced on June 21, 2011 and certify in accordance with §202-3712 of the Code of Virginia that these discussions included only public business matters lawfully exempted from open meeting requirements and that only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered in the meeting. Any member of council who believes that there was a departure from the requirements shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place.
2. Motion to appoint \_\_\_\_\_ as Interim City Manager to serve at the pleasure of the governing body, and to authorize the President of council to negotiate and have executed an employment agreement specifying the terms of such appointment.

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

## REPORT OF THE MAYOR

Mayor Minor stated National Night Out, a year-long community building campaign, is designed to:

- 1) Heighten crime prevention awareness;
- 2) Generate support for, and participation in, local anticrime programs;
- 3) Strengthen neighborhood spirit and police-community partnerships; and
- 4) Send a message to criminals letting them know that neighborhoods are organized and fighting back.

She said the Winchester Police Department is proud to coordinate National Night Out. This year's events will be held on August 2nd beginning at 6 p.m. Contact the Police Department for more information and locations.

Mayor Minor stated if you have ever had an interest in City government or would just like a better understanding of how the City operates, the INSIGHT Citizen's Academy is for you. INSIGHT provides area residents an opportunity to discover their City government through interactive, hands-on activities while gaining exposure to the wide range of government services, programs, functions and challenges. The 2011 program begins August 4th, so register soon. All information about the program can be found on the City's website.

Mayor Minor announced that the Winchester Parks & Recreation's 2nd Annual Moonlight Ball will be held on Saturday, July 30th from 6-10 pm at the First Presbyterian Church on the Pedestrian Mall. This family-friendly event is free and includes dance instruction by the Victorian Dance Ensemble and live music by the Susquehanna Travellers. If you love to dance, don't miss this exciting opportunity to learn a new move or two and to do something unique.

Mayor Minor asked for everyone to please keep safe, cool, and hydrated this summer – check on the elderly in your neighborhoods and keep children and pets out of unattended cars. Let's take care of each other.

## REPORT OF THE CITY MANAGER

**O-2011-13: AN ORDINANCE TO APPROVE AND ADOPT A SPOT BLIGHT ABATEMENT PLAN PURSUANT TO SECTION 6-133 OF THE WINCHESTER CITY CODE, FOR THE STRUCTURE(S) AND PROPERTY LOCATED AT 112 EAST CLIFFORD STREET**

City Manager Jim O'Connor stated O-2011-13 would need to be voted on to clarify that repairs are to be done and not condemnation at 112 East Clifford Street.

Councilor Willingham moved to adopt O-2011-13. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye

Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

## **REPORT OF THE CITY ATTORNEY**

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

## **PUBLIC HEARINGS**

**O-2011-17:** Second Reading - AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 29-11 AND 29-13 OF THE WINCHESTER CITY CODE PERTAINING TO AN INCREASE IN WATER AND SEWER RATES

*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 adopt the ordinance. The motion was seconded by Councilor Hill.

Councilor Willingham expressed his concern with the trend of doing 15 years loans with the about of debt the city has. The city continues to pass the increases on to the consumers and it adds stress to the cash flow. He suggested going to a 30 year loan.

Mr. O'Connor clarified the city does 20 year amortizations instead of 15 year.

President Buettner asked what it would do to the payments. Utilities Director Perry Eisenach stated that when looking at a \$20.5 million loan, it would be \$9 million more in total payments going from a 20 year to a 30 year.

Vice-President Major made the request to see that kind of information on projects in the future.

Councilor Willingham moved to modify the loan term to pursue a 30 year loan instead of a 20 year loan. The motion was seconded by Mayor Minor.

President Buettner asked what that would do to the proposed rate increase. Mr. Eisenach stated a 30 year loan would be two 14% increases instead of two 15% increases.

*The amendment passed 5/3 with President Buettner, Vice-President Major and Councilor Clark voting in the negative.*

*The amended ordinance 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>
Councilor Clark	Nay
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2011-16:** Second Reading - AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS OF CHAPTER 18 OF THE WINCHESTER CITY CODE PERTAINING TO PARKS AND RECREATION

*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 adopt O-2011-16. 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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2011-18:** Second Reading - AN ORDINANCE TO ENACT SECTION 27-27.1 THROUGH 27-27.5 OF THE WINCHESTER CITY CODE PERTAINING TO REAL ESTATE EXEMPTION FOR DISABLED VETERANS

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

*Vice-President Major moved to adopt O-2011-18. 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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2011-26:** Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 7 OF THE WINCHESTER CITY CODE PERTAINING TO REDISTRICTING OF VOTER WARDS AND THE ESTABLISHMENT OF A SECOND POLLING PLACE IN THE FOURTH WARD

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

Mayor Minor moved to adopt O-2011-26. *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>
Councilor Clark	Nay
Councilor Hill	Nay
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

Councilor Tagnesi moved to adopt “Rolling Hills” as the name for the newly created second precinct in the fourth ward. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**O-2011-20:** Second Reading – AN ORDINANCE TO AMEND AND REENACT SECTION 18-8-7 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS IN THE RO-1 DISTRICT WITH HW DISTRICT OVERLAY TA-11-222

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:19 p.m.*

Vice-President Major moved to adopt O-2011-20. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2011-22:** Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 25-17 OF THE WINCHESTER CITY CODE PERTAINING TO THE COMPOSITION, APPOINTMENT, AND TERM OF MEMBERS OF THE OLD TOWN DEVELOPMENT BOARD

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:20 p.m.*

Mayor Minor moved to adopt O-2011-22. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2011-24:** Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-10.1 OF THE WINCHESTER CITY CODE REGARDING BIENNIAL REASSESSMENTS

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:21 p.m.*

Vice-President Major moved to adopt O-2011-24. The motion was seconded by Councilor Hill.

Vice-President Major moved to amend the ordinance to include the revisions proposed by the Commissioner of Revenue. The motion was seconded by Councilor Willingham.

Councilor Tagnesi moved to amend the last sentence of the proposed revisions to read “The Administrator or the Commissioner....” *The motion was seconded by Councilor Evan Clark than unanimously approved by voice-vote.*

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

Vice-President Major stated there are two issues in this ordinance – the change in the assessor position and bringing it under Finance and outsourcing the reassessments. He has thought for years the reassessments should be done outside to keep it at arms length from the officials. Council has had lengthy discussions in the past on the cost and transparency. He supports keeping it outsourced. It is not possible for Council to raise the assessments to raise revenue. It cannot be done unless property taxes are raised. He also thinks it is important to have the whole process vetted by more than one individual. Having the position under the city manager provides for more transparency.

President Buettner stated he believes moving the office under the city manager creates another layer of checks and balances. The two offices will be working together to create a better product. Having that arms length process will give the citizens an unbiased value to their property. He stated he has been asked about the costs and although the figures have been accurate they have not been complete. He likes having a set cost, a firm that are experts in the field, and someone to be there to justify the assessments.

*The ordinance 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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**O-2011-25: Second Reading – AN ORDINANCE TO AMEND AND ACCEPT THE RE-DEDICATION OF .6630 ACRES OF PROPERTY FROM JDC WINCHESTER LLC IN FURTHERANCE OF THE SPRING STREET CONNECTOR PROJECT**

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:36 p.m.*

Councilor Willingham moved to adopt O-2011-25. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

**CU-11-289:** Conditional Use Permit – Request of Dale Massey dba Piccadilly’s Public House & Restaurant for renewal of a conditional use permit for nightclub use, to include the addition of outdoor entertainment, at 121-125 East Piccadilly Street (Map Numbers 173-01-P-7 & 8) 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 7:37 p.m.*

Councilor Willingham moved to approve CU-11-289. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**CU-11-272:** Conditional Use Permit – Request of Blanca Lopez dba Perlita’s Mexican Restaurant for a conditional use permit for nightclub use at 101 Weems Lane (Map Number 271-04-101) zoned Highway Commercial (B-2) District.

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:38 p.m.*

Councilor Tagnesi moved to approve CU-11-272. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

## **PUBLIC COMMENTS**

Charles Neff of 1467 Greystone Terrace publically thanked Mr. Major for answering questions for the neighborhood regarding O-2011-33. He stated the residents of the neighborhood would like to ask that the original proffers be maintained as they were originally approved in 1999. The redesigned proffers are not quite the same. He stated the residents feel strongly that the original proffers be maintained in light of all the city has done to accommodate this developer.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:39 p.m.*

## **CONSENT AGENDA**

**R-2011-19:** Resolution – Authorize the city to accept a grant from the Bureau of Justice Assistance to assist with the purchase of Bullet Resistant Vests)

**R-2011-24:** Resolution – Approve the application for Harley-Davidson Police Assistance Grant for the purchase of one Harley-Davidson Motorcycle

**R-2011-25:** Resolution – Approve the application for a One Time Equipment Grants from the Department of Criminal Justice Services

**R-2011-23:** Resolution – Approval of the Schedule for the Regular Meetings and Work Sessions for FY12

Vice-Mayor McInturff moved to approve the items on the Consent Agenda. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

## **AGENDA**

**O-2011-28:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 6-134 OF THE WINCHESTER CITY CODE REGARDING DERELICT BUILDINGS, ADOPT SECTIONS 27-39.1 THROUGH 27-39.3 REGARDING ABATED DERELICT PROPERTY, AND AMEND AND RE-ADOPT SECTIONS 27-29 THROUGH 27-30 REGARDING SUBSTANTIALLY REHABILITATED PROPERTY

**O-2011-29:** First Reading – AN ORDINANCE TO APPROVE DERELICT PROPERTY ABATEMENT REAL ESTATE TAX EXEMPTION FOR 661-663 MILLWOOD AVENUE

**O-2011-31:** First Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-27(A)(1) OF THE WINCHESTER CITY CODE PERTAINING TO SPECIAL SPEED LIMITS ON CERTAIN STREETS

**O-2011-33:** First Reading – AN ORDINANCE TO CONDITIONALLY REZONE 1.06 ACRES OF LAND AT 201 SPRING STREET (Map Number 233-08-41), INCLUDING A PORTION OF VACATED RIGHT-OF-WAY, FROM MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT; AND TO REVISE PROFFERS ASSOCIATED WITH CONDITIONAL B-2 ZONING AT 222 SPRING STREET (Map Number 253-01-8A). The Comprehensive Plan calls for new commercial development with safe and convenient access while preserving the character of housing in the adjacent Greystone Terrace subdivision. RZ-11-274

**O-2011-34:** First Reading – AN ORDINANCE TO REZONE A 0.82 ACRE PORTION OF LAND AT 1804-1850 ROBERTS STREET (Map Number 251-01-25) FROM LIMITED INDUSTRIAL (M-1) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT. The Comprehensive Plan calls for interconnected commercial development using right-in/right-out access to Jubal Early Drive. RZ-11-276

**O-2011-35:** First Reading – AN ORDINANCE TO AMEND ARTICLE 18-8-9 TO REFLECT EXPANDED SIGNAGE PROVISIONS INTENDED TO RECOGNIZE INCREASING HEIGHT AND FOOTPRINT OF THE MEDICAL CENTER BUILDINGS TA-11-303

**O-2011-36:** First Reading – AN ORDINANCE TO AMEND SECTIONS 4-1, 4-2, 5-1, 5-2, 5.1-1, 5.1-2, 7-1, 7-2, 9-1, and 9-2; AND, ADOPT ARTICLE 13.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO COTTAGE HOUSING DEVELOPMENT DESIGN STANDARDS AND USE PROVISIONS TA-11-125

**O-2011-19:** First Reading – AN ORDINANCE TO AMEND AND REENACT SECTION 18-19 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATION STANDARDS TA-11-204

**R-2011-22:** Resolution – To Initiate a Memorandum of Understanding with Trash/Waste Removal Service Providers Pertaining to the Hours of Operation. (Modification to O-2011-08: Pertaining to the Operation of Trash Trucks between the Hours of 11:00 PM and 6:00 AM)

Vice-President Major moved to approve R-2011-22. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**Announcement:** The resignation of Susan Roberts as a member of the Parks and Recreation Board effective June 14, 2011 and direct the Clerk of Council to advertise the vacancy. Ms. Roberts was serving her first three year term expiring April 30, 2013.

**EXECUTIVE SESSION:** 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

Vice-President Major moved to convene into executive session. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

Vice-Mayor McInturff moved to reconvene in open session at 8:04 p.m. *The motion was seconded by Vice-President Major 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
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

Motion to conclude the executive session pertaining to the Interim City Manager search announced on June 21, 2011 and certify in accordance with §202-3712 of the Code of Virginia that these discussions included only public business matters lawfully exempted from open meeting requirements and that only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered in the meeting. Any member of council who believes that there was a departure from the requirements shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place.

Vice-President Major moved to conclude the executive session at 8:05 p.m. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

Upon conclusion, 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 Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Absent
Councilor Willingham	Aye
President Buettner	Aye

Motion to appoint \_\_\_\_\_ as Interim City Manager to serve at the pleasure of the governing body, and to authorize the President of council to negotiate and have executed an employment agreement specifying the terms of such appointment.

Vice-President Major moved to appoint Craig Gerhart as Interim City Manager. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Vice-President Major stated this is Mr. O'Connor's last Council meeting and expressed his gratitude for his service to the City of Winchester.

**ADJOURNMENT**

Vice-President Major moved to adjourn the meeting at 8:07 p.m. *The motion was seconded by Councilor Willingham then approved unanimously by voice-vote.*

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Kari J. Van Diest  
Deputy Clerk of the Common Council