

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
August 9, 2011**

A regular session of the Winchester Common Council was held on Tuesday, August 9, 2011 in the Council Chambers, Rouss City Hall. Vice-President Art Major called the meeting to order at 7:00 p.m.

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

INVOCATION – Reverend Jim Utt, Grace Evangelical Lutheran Church delivered the invocation.

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

APPROVAL OF MINUTES – July 12, 2011 Regular Meeting and July 19, 2011 Work Session

Councilor Clark moved to approve the minutes as presented. *The motion was seconded by Councilor Veach then unanimously approved 8-0-0.*

REPORT OF THE MAYOR

Mayor Minor welcomed the new Interim City Manager, Craig Gerhart and stated everyone is looking forward to working with him.

Mayor Minor announced that during the month of July, the travel counselors greeted 2,095 visitors at the Winchester-Frederick County Visitors Center. This was an increase of 11% over July of 2010. The designation by AARP Magazine that Winchester is one of the 10 Best Places to live and retire in the U.S. has created quite a buzz! Since the announcement, the number of requests from prospective visitors for our visitor guides has quadrupled! The Patsy Cline Historic House officially opened last Tuesday, August 2, with 500 visitors during the first week of operation.

Mayor Minor was excited to report the 2011 Cal Ripken 10-Year-Old World Series begins this weekend. The Parks Department and many others have worked tirelessly over the past year to organize such a grand event. The Opening Ceremonies is open to the public and will begin at 7:00 pm at Yost Field in Jim Barnett Park. The games begin on

Saturday at 1:30 pm and continue until the championship game the following Saturday. The Winchester team will play in the evenings during pool play so come out to support the Winchester team.

Mayor Minor announced the Winchester Parks & Recreation's 2nd Annual Salsa Fest will be held August 27th from 6-10 pm. The Salsa Fest has a new location this year. The 2011 event will be held in the OakCrest Companies and Winchester Star parking lot on North Kent Street. Tickets are on sale now at Jim Barnett Park. Don't miss it! It was such a great time last year and can't wait to see all of you there this year.

R-2011-27: Resolution: Honoring the retirement of Major Wendell Clay Ratliff (pages

Mayor Minor presented the resolution to Major Wendall "Clay" Ratliff and thanked him for his service to the City of Winchester.

Councilor Willingham moved to approve R-2011-27. *The motion was seconded by Councilor Veach then unanimously approved 8-0-0.*

REPORT OF THE CITY MANAGER

Interim City Manager Craig Gerhart thanked City Council for the opportunity to serve this council and this community. He stated on the agenda, staff did receive a request on the first item from the applicant to table for one month. Secondly, if O-2011-28 is enacted, no action is needed on the following ordinance. It can be done administratively.

REPORT OF THE CITY ATTORNEY

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

PUBLIC HEARINGS

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

Vice-President Major stated he is inclined to move forward with the public hearing on this item. Council has discussed the ordinance quite a bit and having the applicant here doesn't make a difference to him. He asked if anyone would like to make the motion to table as the applicant requested. No motion was made and the public hearing was opened.

Planning Director Tim Youmans stated he has received several calls regarding this ordinance. He informed the citizens about the applicant's request and that it is Council's standard practice not to take action on privately sponsored amendments when the applicant asks for it to be tabled. Regardless of the public hearing, he believes there are people who wanted to be here to hear the discussion.

With no further citizens to address Council concerning this issue and the Vice-President declared the public hearing closed at 7:12 p.m.

Councilor Clark moved to table O-2011-19 as requested. *The motion was seconded by Councilor Hill then approved 7/0 with Vice-Mayor McInturff abstaining.*

O-2011-28: Second 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

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

Councilor Willingham moved to adopt O-2011-28. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Absent

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

Councilor Willingham moved to remove O-2011-29 from the agenda. *The motion was seconded by Councilor Veach then unanimously approved 8/0.*

O-2011-31: Second 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

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

Councilor Willingham moved to adopt O-2011-31. *The motion was seconded by Vice-Mayor McInturff 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	Aye
Councilor Willingham	Aye
President Buettner	Absent

O-2011-33: Second 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

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 Willingham moved to adopt O-2011-33. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Absent

O-2011-34: Second 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

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

Vice-Mayor McInturff moved to adopt O-2011-34. *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	Aye
Councilor Willingham	Aye
President Buettner	Absent

O-2011-35: Second 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

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

Mayor Minor moved to adopt O-2011-35. *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>
Councilor Clark	Nay
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye

Mayor Minor	Aye
John Tagnesi	Abstain
Councilor Veach	Aye
Councilor Willingham	Abstain
President Buettner	Absent

O-2011-36: Second 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

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

Councilor Willingham moved to adopt O-2011-36. *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>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Nay
Councilor Willingham	Aye
President Buettner	Absent

PUBLIC COMMENTS

Phil Griffin, Chairman of the Top of Virginia Regional Chamber, invited the members of Council to the Hob Nob of the Valley and provided a summary of the events held to support local businesses in Winchester, Frederick County and Clarke County.

John Nelson of Polly's Cab stated as part of a larger fee restructuring the city is executing, the Winchester Police Department has proposed the desire to increase the fees associated with driving a taxi cab in Winchester. This is a case of the city trying to extract revenue from a sector of the community that does not have it. The individuals he hires are often unemployed and do not have the surplus cash to invest in an exorbitant application fee. He takes pride in providing employment in helping our local citizens to

get work. This extreme increase will most certainly deter employment and possibly lead to an increase in unlicensed drivers. He understands the need to revisit the overall fee structure but cannot support an increase to apply for a taxi cab permit. The proposal increases the application fee dramatically and is more than twice as expensive as permits issued in much larger areas with a higher average income and a much larger population such as Manassas. It is also twelve times higher than that of Waynesboro which is slightly smaller than Winchester. Even at the reduced rate which has been discussed at \$50.00 per permit, the driver must still incur an additional cost of providing the passport photos which is typically \$10.00. This presents a brick wall between a driver and an opportunity for employment. He can speak of experience in that the current fee of \$35.00 already creates a certain hardship for many of his applicants. He also understands that one discussion point is that the companies could pay the fee for the drivers or at least subsidize the expense. The local taxi cab industry is already at a disadvantage with rising fuel expenses, skyrocketing insurance costs and a population with a disproportionate level of competition lacking proper entry regulation by the city. The City of Winchester collects and assesses personal property tax on each taxi cab using assessed values which given the reality of their use greatly exceed what is reasonable. The city also collects business license fees using the second highest tax rate which is greater than twice that of contractors, retail, and what wholesale businesses pay. He would argue that the expenses required by the Police Department are already subsidized by the taxi cab companies through the taxation by the city. Without regulation or other forms of support for the taxi cab industry, it is difficult for him and perhaps any of the other owners in Winchester to find rate increases of this magnitude or of any size appropriate or fair.

Ken Candell of 127 Myrtle Avenue stated he is a new resident in Winchester who recently retired after 40 years in law enforcement. In trying to determine how Winchester works, he came to ask a couple of questions. He expressed his concern that the condition of the sidewalks on Stewart Street will cause the tree canopy to disappear similar to Valley Avenue. He asked if this was going to happen. He also asked what City Council is going to do to maintain the post office downtown or make use of the building in the efforts to reinvigorate the downtown area.

No further citizens came forward to address Council and the Vice-President declared the public comments closed at 7:26 p.m.

CONSENT AGENDA

Appointment: Motion to nominate Milt McInturff to serve on the Local Emergency Planning Committee (LEPC) filling the vacancy created when Mr. Butler left Council

Councilor Veach moved to approve the nomination of Vice-Mayor McInturff. *The motion was seconded by Councilor Willingham then unanimously approved 8/0.*

Appointment: Motion to appoint Craig S. Gerhart as the Clerk of Council, the administrative advisory member of the Planning Commission, the ex-officio member of the Social Services Advisory Board, and a member of the Juvenile Detention

Commission, the Local Board of Social Services, the Winchester-Frederick County Metropolitan Planning Organization, the Community Policy and Management Team, and the Old Town Development Board for a term of not more than six months to expire immediately upon conclusion of his service as interim City Manager.

Councilor Willingham moved to approve the appointments of Craig S. Gerhart. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

Motion to direct the Clerk of Council to prepare a Certificate of Appreciation to Patricia Perkins for her service on the Local Emergency Planning Committee

Councilor Willingham moved to approve the preparation of the certificate for Ms. Perkins. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

AGENDA

O-2011-37: First Reading – AN ORDINANCE TO ADOPT SECTION 31-45 FEES AND 31-65 FEES OF THE WINCHESTER CITY CODE PERTAINING TO FEES ASSESSED TO CAB COMPANIES

Councilor Clark asked Mr. Gerhart and Chief Sanzenbacher to look at the ordinance before it goes to second reading so a medium point could be reached in the fees.

Chief Sanzenbacher stated the existing fee of \$25.00 fee barely covers the costs. There is an \$18 fee that has to be reimbursed to the State Police for fingerprinting and \$8 to Social Services for their check. He has met with the cab companies including Mr. Nelson and Mr. Pruitt of Taxi USA and through discussions with them he thinks \$50 is a more reasonable fee. He submitted an amendment to the ordinance that is included in the packet.

Councilor Clark asked what the highest fees in Virginia are. Chief Sanzenbacher stated the highest fees are in Harrisonburg and Manassas at \$50. He felt that amount was a happy medium and a compromise and did not hear any objections from Mr. Nelson or Mr. Pruitt when discussing that fee.

O-2011-38: First Reading – AN ORDINANCE EXEMPTING PROPERTY OWNED BY NW WORKS FROM TAXATION BY DESIGNATION FOR THE IMPROVED PROPERTY THAT IS CURRENTLY LOCATED ON A PARCEL OF LAND LOCATED WITHIN THE CITY OF WINCHESTER AT 3085 SHAWNEE DRIVE IDENTIFIED AS TAX MAP ID NUMBER 351-1-1

R-2011-26: Selection and authorization of the City Manager Executive Search Firm

Finance Director Mary Blowe stated both companies agreed to a two year warranty guarantee. Although Springsted came in lower at \$16,000 compared to \$21,000, staff still supports the committee's recommendation to choose the Mercer Group.

Councilor Veach moved to insert the Mercer Group into the resolution and to adopt R-2011-26. *The motion was seconded by Mayor Minor then unanimously approved 8/0.*

Announcement: The term expiration of R. Ben Weber and Lauri Bridgeforth as members of the Old Town Development Board effective October 31, 2011 and direct the Clerk of Council to advertise the vacancy.

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.

Councilor Willingham moved to convene into executive session at 7:33 p.m. *The motion was seconded by Councilor Clark then unanimously approved 8/0.*

Councilor Veach moved to reconvene in open session at 8:01 p.m. The motion was seconded by Vice-Mayor McInturff then unanimously approved 8/0.

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	Aye
Councilor Willingham	Aye
President Buettner	Absent

ADJOURNMENT

Councilor Clark moved to adjourn the meeting at 8:01 p.m. *The motion was seconded by Councilor Willingham then unanimously approved 8/0.*

Kari J. Van Diest
Deputy Clerk of the Common Council