

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
April 10, 2012**

A regular session of the Winchester Common Council was held on Tuesday, April 10, 2012 in the Council Chambers, Rouss City Hall. President Jeffrey Buettner called the meeting to order at 7:02 p.m.

PRESENT: President Jeff Buettner; Councilor Evan Clark, John Hill, John Tagnesi, Les Veach and Ben Weber; Vice-Mayor Milt McInturff; Mayor Elizabeth Minor; Vice-President John Willingham (9)

ABSENT: None (0)

INVOCATION – Pastor Daniel Garrett of Braddock Street United Methodist Church delivered the invocation.

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

APPROVAL OF MINUTES – February 21, 2012 Work Session, February 28, 2012 Work Session, March 6, 2012 Work Session, and March 13, 2012 Regular Meeting

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

REPORT OF THE MAYOR

R-2012-23: Retirement of Bill Tumblin
R-2012-24: Retirement of Sandra Jett
R-2012-25: Retirement of John Galloway
R-2012-26: Retirement of Earl Thompson
R-2012-27: Retirement of Hal Christensen
Proclamation: Child Abuse Awareness Month

Mayor Minor presented the resolutions to Bill Tumblin and John Galloway and thanked them for their service to the City of Winchester. She also presented the proclamation declaring the month of April as Child Abuse Prevention Month and reminded everyone to hug their children.

REPORT OF THE CITY MANAGER

Interim City Manager Craig Gerhart stated he did not have a report to present.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated a revised agreement addressing Council's concerns regarding item O-2012-12 Governor's Opportunity Fund Agreement has been distributed.

Vice-President Willingham moved to add the Manager's Employment Agreement and Appointment to the agenda. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

Vice-President Willingham moved to authorize the President of Council to sign the City Manager's Employment Agreement on behalf of the City of Winchester and appoint Dale E. Iman to serve as the City Manager for the City of Winchester effective and commencing April 23, 2012, in accordance with the terms of said agreement. *The motion was seconded by Councilor Hill then unanimously approved by voice-vote.*

Vice-President Willingham moved to close the executive session regarding the city manager search. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

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

PUBLIC HEARINGS

O-2012-04: Second Reading – AN ORDINANCE TO ADOPT SECTION 5-6.3 OF THE WINCHESTER CITY CODE PERTAINING TO CONFINEMENT OF ANIMALS IN VEHICLES PROHIBITED

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

Councilor Veach moved to adopt O-2012-04. *The motion was seconded by Councilor Tagnesi 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-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

O-2012-05: Second Reading – AN ORDINANCE TO AUTHORIZE THE MANAGER TO EXECUTE A LETTER OF AGREEMENT WITH SHENANDOAH PERSONAL COMMUNICATIONS COMPANY (“SHENTEL”) FOR THE TEMPORARY USE OF CITY PROPERTY FOR THE PURPOSE OF ERECTING A MOBILE TELECOMMUNICATIONS FACILITY – CELL ON WHEELS (“COW”) ON PROPERTY OWNED BY THE CITY OF WINCHESTER AT THE SOUTH END OF THE TIMBROOK ANNEX DURING THE 2012 APPLE BLOSSOM FESTIVAL

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 Willingham moved to adopt O-2012-05. *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-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

O-2012-06: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT ARTICLE IX OF THE WINCHESTER CITY CODE PERTAINING TO ASSEMBLIES, DEMONSTRATIONS AND PARADES

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

Councilor Veach moved to adopt O-2012-06. *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	Aye
Councilor Hill	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

O-2012-07: Second Reading – AN ORDINANCE APPROVING RIGHT-OF-WAY EASEMENT AGREEMENT WITH RAPPAHANNOCK ELECTRIC COOPERATIVE FOR REGIONAL LANDFILL PROPERTY IN CLARKE COUNTY

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

Vice-Mayor McInturff moved to adopt O-2012-07. *The motion was seconded by Vice-President 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-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

CU-12-44: Conditional Use Permit – Request of Adrian Zhang dba 360 Night Club for a conditional use permit for nightclub use at 2250 Valley Ave (*Map Number 270-01-4*) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay.

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

Councilor Clark moved to approve CU-12-44. *The motion was seconded by Vice-President Willingham then unanimously approved by voice-vote.*

CU-12-63: Conditional Use Permit – Request of Celebrating Patsy Cline, Inc. for reapproval of a conditional use permit, to include a request to modify conditions imposed

with the existing permit, for a museum at 608 South Kent Street (*Map Number 213-01-M-17*) zoned Limited High Density Residential (HR-1) District.

Abby Shartzshow of 606 S. Kent Street stated the neighborhood does not want the Celebrating Patsy Cline Museum to close. They understand it is a draw for tourism which brings money into the city that benefits all. With that said, there are some problems that need to be addressed. She stated everyone is talking about the parking situation and although that was the catalyst, it is not the only issue. The managing members of the museum have behaved in deplorable ways. They have been dismissive, rude, and aggressive. The attitude the neighbors are met with is they simply do not matter. CPC has violated their current conditional use permit at every turn. The only thing they have not violated is the review process being done now. She stated if Condition 2 which is to take into consideration the concern of the neighbors and addressing them as they come up had been done, she would not be here tonight. Condition 3 prevented the museum from opening before 10:00 a.m. but there is evidence that there was a tour at 9:30 where the bus actually showed up at 9:00 a.m. She stated she was the one who called the city to report it and the bus was still there at 9:30 when the inspector took its picture. It is also stated in the conditions that they are allowed 6 private receptions per calendar year which they have exceeded that many times. They want their board meetings held at the house which they are considering special events and have already said have numbered 10. Along with the board meetings, they have stated they want to hold weddings at the house proving they are already expecting to violate the next conditional use permit. Condition 4 is pretty much the bone of contention with the neighborhood and requires the employees and volunteers to park in the East Pall Mall Street lot which they are not doing. Condition 5 requiring idling coaches and other vehicles unload their passengers within 15 minutes can be argued they are following to the letter but not in the spirit. Currently, passengers are unloaded within 15 minutes and then the driver turns the engine off and stays on the street for the duration of the tour. In closing, Ms. Shartzshow distributed a letter from one of the neighbors supporting her comments regarding the museum.

Ron Hottle of 165 Clearview Drive in Clearbrook, Virginia, stated he is the President of Celebrating Patsy Cline. For over 15 years, Celebrating Patsy Cline has had the goal of opening a permanent place to recognize one of the city's most renowned citizens, Patsy Cline. They have been asked by many people why such a place had not been done. During this time period, they have been able to collect items belonging to Patsy which has been a challenging task to do so. Through the generosity of the item's family and a donor, the Celebrating Patsy Cline group has been able to obtain 608 S. Kent Street where she lived with her family from 1948 to 1957. Over the past several years, much effort, time and money has been spent gathering information as to how Patsy and her family furnished the home and supported her family while this girl from Winchester was making a name for herself. Through the support of Patsy's immediate family, many local businesses, and individuals who grew up with Patsy and visited her home, CPC was able to restore the home close to the time that her family lived there. Restorations started in May of 2011 and were completed in August 2011 when the house opened for its first tour. During this time, over 3,000 individuals representing 49 of the 50 states in the United States came through the house as well as several international countries. He was glad to say that with the financial support of many citizens and visitors, CPC has fully paid for the restoration of the home and the furnishings. But, this opening has also presented challenges to the close knit neighborhood surrounding the house. The very

little on or off street parking and a very narrow street has presented much concern for the safety of our neighboring citizens. The increased traffic during tour hours as well as visitors stopping to take photos of the house has caused much concern. CPC and the staff of the Patsy Cline Historical House has a template to reduce this concern by having docents park away from the house in order to allow for visitor parking and through scheduling motor coach tours to provide less noise and confusion while parking at the house. With the very short open season last year, CPC was overwhelmed by the interest of Patsy's fans to visit. There were a lot of days of crowded streets and noisy fans. CPC hopes that by starting the full touring season of April through October and with scheduled tour times of every 45 minutes, the crowded streets and noise can be reduced. When the original CUP was approved in 2009, CPC did not know what to expect and therefore a lot of the issues were not addressed. Currently, CPC has reached out to the neighborhood. There is one neighbor who is a docent, one who provides assistance to the upkeep of the grounds, and one who has offered parking at his residence. It is CPC's desire to hear the concerns of the neighborhood and address them immediately and will be developing a plan of action to do so. On behalf of Celebrating Patsy Cline, he thanked Council for their concern and time to consider the request.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:26 p.m.

Councilor Veach moved to approve CU-12-63. *The motion was seconded by Councilor Weber and approved 8/1 with Councilor Hill voting in the negative.*

PUBLIC COMMENTS

Sarah Browning of 415 W. Cecil Street stated she lives in the John Kerr school district and will have two children starting school there in the next two school years. She urged Council to reconsider the plan to delay building a new John Kerr Elementary School for five or more years. The discussions regarding the need to replace John Kerr have been ongoing for more than 10 years and the current building is unsafe and has been deemed at its end of life. Recent discussion at both city council and school board meetings have seemed to pass the buck back and forth between the two groups until the recent proclamation by Mr. Gerhart that funding for building a new school would not be available for five years. She urged Council to reexamine their priorities and spending to accelerate building the new John Kerr. The city has seemed to be on a capital spending spree recently. While fancy new sidewalks, water and sewer line replacements, and beautiful new medians on Cameron Street are nice, she thinks nothing is more important than the education of our young people. Delaying the building of a new John Kerr school will significantly increase the cost of the new school and major expenditures will likely +be required to the existing facility, not to mention the cost of purchasing modular classrooms at a cost of \$87,500 apiece. Based on the history at Handley High School, these modular classrooms have virtually no residual value when they are finished being used. Furthermore, she urged Council to build the new school, not only quickly, but on the current Jefferson Street site. John Kerr is known for its neighborhood feel and it should stay that way. On the other site being discussed, no child will be able to walk to school, more buses will be required, the cost will be higher, and the construction will take much longer. Also, the city certainly shouldn't take on the burden or the cost of building the road extension that would be required to access the other site. The alternative site is in a busy commercial corridor, and that land is better suited for development into

something that will generate much needed tax revenue. I have talked to neighbors, parents, grandparents, and many other residents of the city of Winchester who all agree. She presented a petition signed by over 300 residents who feel strongly that a new school should be built on the current site without further delay. She stated she understands the recommendation on new schools and their locations come from the school board but city council must approve the plans and provide the necessary funding. She urged Council to do what is right for our city and our children, and take steps now to move forward with building a new John Kerr Elementary School on the current site.

Meredith Watts of 420 Stonewall Avenue stated she is a 6th grader at Daniel Morgan and used to go to John Kerr. She had a fun time there but the school needed much help. She remembers being in the 3rd grade when the 4th graders were taking their writing SOL test and they had to be absolutely quiet the whole day. It was very hard at that age since many of her friends were in her class and she loved to talk to them. She remembers being in a class right up against the 4th grade classroom and being told by her teacher that if they talked they would be in detention after school. She was so scared of getting detention that she did not dare to talk. Her friend was caught by a teacher accidentally asking someone a question and got detention. She understands the 4th graders should not have to work through noise during the SOL tests but other students shouldn't be punished for asking a question. These kinds of days would be different if there were walls in the school. Rebuilding John Kerr should happen soon as the students deserve a great place to live.

Andrea Kaenker of 500 Jefferson Street stated she has been a neighbor of John Kerr's for the last 18 years. It has been a wonderful experience. She sees mothers and sometimes dads walking their children to school. There has never been any issue with parking, congestion or noise. As much as she wishes they did, not everyone shares her opinion so she and a friend canvassed Jefferson Street, Tennyson Avenue and particularly the two houses on the corner of Tennyson and Harper where the entrance to John Kerr is. The overwhelming response was that everyone was very much in favor of John Kerr remaining in the neighborhood. Once in a while, she received comments stating the individuals were not aware or did not know enough to sign the petition and why would they want to move it. As a neighbor of John Kerr, she heartedly endorses that they stay where they are and the people she talked to are very much in favor of that too.

No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:45 p.m.

CONSENT AGENDA

AGENDA

O-2012-09: First Reading – AN ORDINANCE TO VACATE A PORTION OF SPRING STREET RIGHT-OF-WAY ADJACENT TO 1462 GREYSTONE TERRACE AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY SV-12-78

O-2012-12: First Reading – AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO SIGN A PERFORMANCE AGREEMENT BY AND BETWEEN THE CITY OF WINCHESTER, THE ECONOMIC DEVELOPMENT AUTHORITY, AND RUBBERMAID COMMERCIAL PRODUCTS, LLC, AND TO APPROPRIATE

\$300,000 AND ESTABLISH A RESERVE OF \$400,000 FOR THE LOCAL MATCH TO THE GOVERNOR'S OPPORTUNITY FUND

O-2012-10: First Reading – AN ORDINANCE TO DECLARE A BLIGHTED PROPERTY AND ABATE A PUBLIC NUISANCE BY APPROVING AND ADOPTING A SPOT BLIGHT ABATEMENT PLAN PURSUANT TO SECTION 6-133 OF THE WINCHESTER CITY CODE, FOR THE STRUCTURE AND PROPERTY LOCATED AT 31 EAST PICCADILLY STREET SBA-09-01

O-2012-11: First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 23-6 OF THE WINCHESTER CITY CODE PERTAINING TO THE POSTING OF NO TOBACCO SIGNS IN CITY PARKS

R-2012-15: Resolution – Authorize the execution of agreements with VDOT and Winchester and Western Railroad Company for improvements to traffic safety devices at railroad crossings

Vice-President Willingham moved to approve R-2012-15. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

R-2012-16: Resolution – Approve the improvements to be included in the Indian Alley Improvements Project

Councilor Clark moved to approve R-2012-16. *The motion was seconded by Vice-President Willingham then unanimously approved by voice-vote.*

R-2012-18: Resolution – Authorize the execution of an agreement with Glass-Glen Burnie Foundation for construction and maintenance of the Green Circle Trail

Vice-President Willingham moved to approve R-2012-18. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

R-2012-19: Resolution – Approve modification to the intersection of Amherst Street and Linden Drive to restrict left turns onto Amherst Street from Linden or the CVS exit

Vice-President Willingham moved to approve R-2012-19. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

R-2012-20: Resolution – Authorize the acceptance of Department of Motor Vehicles DUI Grant in the amount of \$40,514

Councilor Veach moved to approve R-1012-20. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

R-2012-21: Resolution – Approval of a naming rights policy for facilities and amenities with our City parks

Councilor Clark moved to approve R-2012-21. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

R-2012-22: Resolution – Approval to enter into contract negotiations with USA Sports & Marketing Services

Vice-President Willingham moved to approve R-2012-22. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

Announce the term expirations of John Bishop, Barry Deuel, and Linda Miller as members of the Winchester School Board effective June 30, 2012. Mr. Bishop is eligible for re-appointment. Mr. Deuel and Ms. Miller are not eligible for re-appointment.

Announce the term expirations of Kjungmin Lee, Eric Campbell, and Nancy Rinker as members of the Winchester-Frederick County Tourism Board effective June 30, 2012. Ms. Lee, Mr. Campbell, and Ms. Rinker are eligible for re-appointment.

EXECUTIVE SESSION: MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(3) OF THE CODE OF VIRGINIA FOR THE DISCUSSION AND CONSIDERATION OF THE ACQUISITION OF REAL PROPERTY FOR A PUBLIC PURPOSE, OR THE DISPOSITION OF PUBLICLY HELD REAL PROPERTY, WHERE DISCUSSION IN AN OPEN MEETING WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE CITY

Vice-President Willingham moved to convene into executive session at 7:50 p.m. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

Vice-Mayor McInturff moved to reconvene in open session at 8:20 p.m. *The motion was seconded by Vice-President 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
Councilor Clark	Aye
Councilor Hill	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
John Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

ADJOURNMENT

Councilor Clark moved to adjourn the meeting at 8:20 p.m. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council