

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
June 25, 2013
City Council Chambers – Rouss City Hall**

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

1.0 President Willingham called the meeting to order at 6:01 p.m.

2.0 Public Comments: (Each person will be allowed 3 minutes to address Council with a maximum of 10 minutes allowed for everyone.)

Lanette Orduna of Posh Pet Boutique located 16 South Loudoun Street stated banning delivery trucks on the downtown mall creates a hardship for businesses adjacent to the mall without back entrances for deliveries as well as those who rely on FedEx and UPS for most of their goods such as they do. They are now open 7 days a week from 10-6 and on Sundays from 10-4. As small business owners, they do not have additional staff to wait for deliveries to be made sometime between 8 and 10 a.m. and then work an entire work day after that. They currently get their FedEx and UPS deliveries between 10 and 11 every day prior to the banning of them on the mall. If they do not receive their UPS and FedEx deliveries in the morning, they will have to drop some of their product lines that are always delivered first thing in the morning which in this case is frozen food for pets. They have been advised by Tim, the UPS driver, that his manager will change their delivery time from morning to afternoon if they cannot come back on the mall because it sets their schedules so far behind with everyone else in town. Additionally, they work on just in time inventory meaning they order something via UPS or FedEx and guarantee their customers it will be in by noon the next day. They cannot do this if the deliveries are moved to the afternoon. Therefore, they will lose a big personal service that they offer their customers to provide special delivery on things they need by the next day. If the deliveries come at the end of the day, they will never know what time they will come. Additionally, they need the shipments to come in the morning to put away the merchandise before they get busy and not at the end of the day when people will be tripping over the boxes. They do not have back rooms to store goods. Mornings are generally slow leaving time to get the inventory out and off the floor. Small businesses do not have huge back rooms. The mall is a commerce mall and not a park. They need to conduct business professionally and offer unique services to get boutique clients in their shops. If they must endure restrictions that cut back their

services, they will not be able to offer these distinctive reasons for people to come shop with them as a boutique. Allowing delivery trucks on the mall with the limitation they are off by 11 a.m. has worked for the downtown businesses with no serious incidents. The delivery drivers are efficient, courteous, and do not leave their trucks parked on the mall for long periods of time. They are on and off the mall as quickly as possible and as far as they know no one has ever been hit by a delivery truck on the mall. Regarding restaurants, in most cases lunch starts after 11:30 and delivery trucks are gone by then.

Rebecca Miller of Posh Pets read the following statement from Emily Rhodes of the Polka Dot Pot:

Dear Council members, after speaking with quite a few fellow merchants here on the Old Town walking mall, I would like to restate my opinion on having delivery vehicles on the mall. Not allowing delivery vehicles on the mall would have a huge negative impact on the businesses located on the mall. I honestly cannot understand how just about every other type of vehicle would be allowed except for those who are the life blood of your locally owned, small businesses. If the mall is structurally sound, why is this even an issue? It has been stated that closing the mall to vehicles would be the best for pedestrian safety but I have not heard of any specific incidences where the public was harmed in the past. If other vehicles are allowed on the mall, why would it not be a safety concern? If you want the mall to continue to thrive as it has begun over the last few years, you need to leave the current policies in place and remove the benches on the north and south ends of the mall. I would vote that delivery vehicles be allowed to go on the mall until 11 a.m. as the current policy states so business owners are not required to come in earlier than they already do. Small business owners spend enough time at their stores and do not need silly policies expanding them. Thank you for your time. Emily Rhodes, owner of the Polka Dot Pot.

Ms. Miller continued to read a statement from Carrie Luebcke, owner of Scarpa Alta:

Keep commerce flowing, keep the trucks going. We have suffered long enough. Truck deliveries are part of city life. They come with the territory. They are the sound of business. Without business downtown there will be no downtown. Our delivery drivers are respectful and courteous. They need to be able to get their jobs done without road blocks. We respectfully ask that businesses not be impeded and delivery services be restored to the normal hours. Please do not put any more obstacles in the way of doing business downtown than what we have already suffered during the reconstruction. Very respectfully, Carry Luebcke.

Bruce Patton of Patton Furniture Sales at 29 South Loudoun Street stated they have been on the mall since 1967 and have always had access to the

mall from the front with their trucks. It is more than a convenience for them. It is a matter of safety. A lot of their items weigh 300-400 pounds. When they have to transport those items through the length of the store, they have to navigate steps to get outside of the back. Whereas, if they can access the front, they can go right onto the mall with no steps and go right to the trucks and load. He thinks it is essential for them to have access time to the mall. Eleven o'clock seems to work for them and is what they need.

Todd Drunagel of Tech Team Solutions at 106 South Loudoun Street stated one of the topics and issues was emergency vehicles being able to pass through and pass by. He does not think in the old mall format they could have passed by with delivery vehicles. He realizes it is a little narrower now but he doesn't think it was any wider before as far as allowing multiple lanes of vehicles. He found out today about UPS changing their delivery times to 4-4:30> It will affect them as well because they could order something today, have it delivered tomorrow and be able to do that work tomorrow. Now, if they get it at the end of the day, it will be another day before they can install or implement some of the items they receive. An afternoon delivery is possible for them but it puts them behind one more day with everything they are doing. They are fortunate enough to only have two steps to get to their rear entry but they have no good parking options or a loading zone from the rear with the church parking lot. Their parking area in the back does not have parking for a loading zone. The delivery truck would be double parked or worse at the church parking lot or out on Cameron Street.

Mark Stickley of Runners Retreat at 135 North Loudoun Street thanked everyone who had involvement in the renovation of the Old Town Mall and stated there definitely seems to be more people out and about the mall. However, he is definitely in favor of keeping the delivery trucks on the mall. He put in a back entrance for the construction that was very helpful for customers and deliveries but it is not a very convenient entrance for the delivery trucks. It is about 10 steps going through a hallway and a courtyard to get into his store and then there are more steps. Carrying big boxes of shoes through the area is very difficult. He has found lately when the deliveries are walked through the front, they are not nearly as timely as they were prior to the renovation and in some cases have been split shipments. Getting one half of a delivery today and the other half tomorrow makes it very difficult to know when he is going to have a shoe so he cannot process things as promptly as he was. He could previously count on everything being in by 10:30 so he could get it all done and ready to go before lunch. He cannot count on that anymore. He almost called a customer the other day to let them know their shoe did not come in. Fortunately, he waited another half hour before calling and the shoe did show up but much later than normal. This whole thing about not allowing trucks was not a part of the original plan. He knows things change but he doesn't see that there are that many people out on the mall before 10 or around 11. Keep in mind that most businesses don't open before 10 so he would hate for the hours to be

shifted so the owners have to get in earlier. He asked that Council do not make it more difficult for the owners to do business as usual. The mall looks great and is a very nice showcase for Winchester but the owners still have to be able to do business as usual. They need to be able to do it in a timely fashion that is consistent on a day to day basis.

Christine Patrick of the Winchester Book Gallery at 185 North Loudoun Street stated she agrees with what everyone has stated so far but wanted to add one more thing. She is very concerned about the perception of barriers at the entrance of the walking mall. She finds the Do Not Enter signs and the barriers that have been up for the last month detrimental to the effort they make to make sure people know they are open and ready for customers. They fight that all of the time because it is difficult to get down town, it is difficult to park, and nobody is open. All of her marketing works hard to go against that but a Do Not Enter sign by her front door makes it really difficult. She has heard lots of phrases about how the sign can be made nice or not nice or pretty but any negative statement at the entrance of a beautiful new mall is a mistake.

Laurie Bridgeforth of Full Frame Photography at 125 South Loudoun Street and the Chair of the Old Town Development Board stated when the OTDB voted earlier this month to ban delivery trucks, her thought process behind calling for a vote was there were several board members who were like minded and she felt very strongly they were not going to change their opinions. She is glad she called for the vote because it ramped up the conversation. She thinks it is important to listen to these merchants here tonight. There are several merchants it does not affect from a day to day basis but you are hearing from those that it does affect. She stated she hopes Council will come up with some sort of a compromise and listen to these folks.

With no further citizens to address Council, President Willingham closed the public comment period at 6:15 p.m.

3.0 Items for Discussion:

3.1 O-2013-20: AN ORDINANCE TO AMEND AND RE-ENACT SECTION 26-33 OF THE WINCHESTER CITY CODE PERTAINING TO SPECIAL PROVISIONS RELATING TO LOUDOUN STREET MALL

City Manager Dale Iman addressed the questions asked by Council at the previous work session regarding the loading zones in the downtown area and the distances between businesses without a back door and the loading zones.

Councilor Weber thanked the business owners who came out and stated he would support continuing the delivery service in the morning hours but asked that the splash pad be kept off until after the morning deliveries stop. He would also like to see a time limit enforced in the loading zones. Councilor Weber asked if a weight restriction could be placed on the delivery trucks. He suggested flipping the handicapped parking space by El Centro and the loading zone in front of Knit 1 Purl 2 around to have the loading zone closer to the mall. Councilor Weber asked if one of the parking spaces in the Hable Lot could be changed into a loading zone. He also asked if the drivers making the deliveries know what direction to drive on the mall.

Mr. Iman stated it will be marked one way with no access from Boscawen Street.

Councilor Weber suggested providing a map to the delivery companies and businesses.

Councilor Veach stated he has heard back from the merchants on the 6-11 delivery times, most want the 11 but thought the 6 could be tightened up a bit to 8-11 or something. He asked if a survey could be done on that time frame. After looking downtown, he thought the delivery trucks could easily park between the planters going north and south. He stated the permitting process has not been clearly defined for him. He does not want to create a nightmare for someone applying for a permit. He asked if emails requesting a permit will be responded to promptly. Could the applicant be given a hanger for the meters? The logistics for access to the entrances have not been addressed either. Will extra enforcement need to be paid for or will someone have a card to swipe to open it up? He stated the benches on the end do not look inviting. He would not support this at all if it bans delivery trucks completely. He stated Council has heard from many merchants that the morning hours are desirable and suggested narrowing it down to that.

Mayor Minor stated she agrees with Vice-Mayor Veach on the morning hours. She knows we have delivery areas but there will still be stores that get damaged and wet merchandise with UPS and FedEx trying to deliver from those areas. She would not be in favor of the evening deliveries but would go with morning deliveries with some weight limitations.

Councilor Hill thanked the merchants for speaking tonight and stated he would support not changing the ordinance at all except for the vehicle limitation in size.

Councilor Clark stated the weight limit is important to him. The big thing that jumps out is the walking mall is a business area and needs to

be supported. He also shares Councilor Weber's idea of maximizing the outlets. He suggested talking to BB&T to see if their parking lot could be used as a loading zone. He supports the morning deliveries and thinks it is important to strike a balance.

Vice-President McInturff stated the big question is deliveries or no deliveries. The merchants have spoken to say they have to have deliveries. Council needs to make a decision on if it's practical to have the deliveries and he thinks they should but eliminate the evening deliveries. He would be more comfortable with an earlier time than 11:00 but he doesn't have a business downtown. He stated Council needs to listen to those that have a business there.

President Willingham asked what types of trucks are limited to the weight limit. He asked to see what trucks would be included and what ones would not be. He would also like more discussion about the permit process to figure out how to communicate to the owners about how the process is going to work. It will need to be ongoing communication. He agrees with what has been said. As a developer, he is trying to get more people living on the mall and to draw more people. He stated he is not comfortable with the 6-11 timeframe and suggested 7 or 8 to 10 or 10:30.

Councilor Weber moved to keep the morning hours as is but to cancel the afternoon hours.

Councilor Clark stated he would like to see a 30 minute time limit and \$50 fine in the loading zones.

Mayor Minor move to amend the motion to set the delivery hours to 6 – 10:30 a.m. *The motion was seconded by Councilor Clark then defeated 3/4 with Vice-Mayor Veach and Councilors Clark, Hill and Weber voting in the negative.*

The motion to include delivery hours of 6 – 11 a.m. passed 4/3 with President Willingham, Mayor Minor, and Vice-President McInturff voting in the negative.

- 3.2 CU-13-273:** Conditional Use Permit - Request of Michael Bortz on behalf of T-Mobile Northeast, LLC for a conditional use permit to upgrade existing telecommunications facilities with replacement antennas at 333 West Cork Street (*Map Number 192-01-C-16*) zoned Health Services (HS) District.

Planning Director Tim Youmans presented the request to replace 6 antennas at 333 West Cork Street to upgrade to 4G service.

Vice-Mayor Veach moved to forward CU-13-273 to Council. *The motion was seconded by Mayor Minor then approved 6/0/1 with President Willingham abstaining.*

Mr. Iman introduced Allen Baldwin, the new Fire & Rescue Chief. Chief Baldwin comes to Winchester with service from Carlisle, Pennsylvania and most recently, Gettysburg, Pennsylvania.

3.3 O-2013-21: AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES TA-13-198

Director of Zoning and Inspections Aaron Grisdale presented the ordinance to update the language and required fees in the Zoning Ordinance for the telecommunication facilities. He stated the proposal would increase the Conditional Use Permit fee for telecommunication facilities from \$500 to \$1500. Many localities charge more for this fee but they hire an outside consultant.

Vice-Mayor Veach moved to forward O-2013-21 to Council. *The motion was seconded by Councilor Clark then approved 7/0.*

3.4 O-2013-18: AN ORDINANCE TO DECLARE THE PROPERTY AT 414 S. BRADDOCK STREET TO BE A NUISANCE; AND APPROPRIATE FUNDS AND AUTHORIZE THE CITY TO ABATE THE NUISANCE AND DEMOLISH OR MAKE EMERGENCY REPAIRS TO THE UNSAFE PROPERTY (DISCUSSION ONLY – PUBLIC HEARING/SECOND READING IS SCHEDULED FOR JULY 9, 2013)

Mr. Grisdale presented a history of the property to include the 1984 structure fire damage and the city's efforts to work with the owner and Building Inspector John Knight presented a summary of the current conditions of the property. Mr. Grisdale stated the City has received reports from two engineering companies and both report the structure needs repairs in order to be structurally safe. The recommendation is for option 2 to demolish the property as the least drastic means to abate the nuisance.

Vice-President McInturff stated for clarification the property is still occupied. He has watched this property for years. It is clear the homeowner is not taking on his responsibility. It is required of the city to take care of the citizens from a safety standpoint.

Councilor Clark stated Mr. Gavis has had 29 years to make repairs from this fire and has chosen not to. Council has been talking about this since he was elected and has tried working with him since 2009. Every time he said he was going to do something, he doesn't. He is concerned from a safety perspective.

Vice-Mayor Veach asked if the property actually has two structures - one parallel to Braddock Street and one perpendicular to Braddock that they live in. Mr. Knight stated that is correct. Mr. Veach stated he is greatly concerned about public safety and favors option 2.

Councilor Weber stated he is very concerned with personal property rights and if this was out in a field there would be no punishment but it has gotten down to public safety.

Councilor Hill expressed his concern about safety and the individuals living there. He stated the city needs to take a more dramatic action.

Mayor Minor stated she would love to see the property renovated but it would be too much on the tax payers.

President Willingham asked if water damage is the worst you can have on a foundation. Mr. Knight stated yes.

President Willingham asked what liability the city has for not abating this if someone gets injured. City Attorney Anthony Williams stated once the code official makes the determination, the city has an obligation to take some action to remedy it. This Council is moving forward as expeditiously as possible in doing that. You do have that duty to take action. The primary purpose of government is to provide protection for its citizens which is exactly what this is all about. Not only protection for Mr. and Mrs. Gavis but those around the property in the event it does collapse. Everyone needs to be aware that what is being proposed is the mansion portion would be demolished and the newer portion would remain habitant if that is possible.

Vice-President McInturff stated with any demolition it will be a step by step process to see how far you can go. He asked if the new part will be torn down if it does not have to be. Mr. Williams stated the ordinance would authorize it if they have to but it is not the intention.

Vice-President McInturff moved to forward O-2013-18 to Council with option 2 to demolish to the point of safety. *The motion was seconded by Mayor Minor then approved 7/0.*

3.5 Motion to approve a Memorandum of Understanding Template for Outside Agency Funding Awards

Assistant City Manager Doug Hewett presented the proposed template for the Outside Agency MOU. As an example of the template, he shared one using an agency being funded in FY14. He stated if Council consents, this is the format the City Manger will use.

Vice-President McInturff moved to forward the template to Council. *The motion was seconded by Councilor Weber then approved 7/0.*

3.6 Motion to approve a Memorandum of Understanding with the Shenandoah Valley Discovery Museum for Capital Renovations at 19 W. Cork Street

Mr. Hewett presented the MOU for the Discovery Museum capital renovations funding. He stated the MOU has been reviewed by the Discovery Museum. The museum returned it today with some style changes that are not substantive.

Councilor Clark moved to forward the MOU to Council with red lines showing the changes. *The motion was seconded by Mayor Minor then approved 5/2 with Vice-President McInturff and Councilor Weber voting in the negative.*

3.7 R-2013-31: Resolution – Adopt the schedule for regularly held meetings and work sessions of City Council for fiscal year 2014

Mr. Hewett presented the resolution to set the schedule for the regular meetings and work sessions for FY14. He stated the only difference is the second work session in September has been moved to the alternate date of October 1 and the meeting scheduled for December 24 has been moved to the alternate date of January 7.

Mayor Minor moved to forward R-2013-31 to Council. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

3.8 O-2013-19: Real Estate Tax Relief for Low Income Elderly and Disabled

Commissioner of the Revenue Ann Burkholder presented the additional options requested at the previous work session to include the income range up to \$40,000.

Vice-President McInturff moved to forward O-2013-19 with option 5. *The motion was seconded by Councilor Weber then approved 7/0.*

4.0 Liaison Reports

Vice-President McInturff stated the Parks Department is starting to work on the master plan for the upcoming year with a presentation to the board in July. The master plan survey will be available online to participate or people can stop by the park to complete the survey.

Councilor Hill stated the citizens of Ward 2 want to commend the Parks organization for the upkeep of Friendship Park.

5.0 Executive Session

President Willingham stated he would entertain a motion to add the discussion of the subject of Employment Matters to the Closed Session Motion for this evening pursuant to 2.2-3711(a)(1) of the Code of Virginia. The motion was made by Vice-President McInturff, seconded by Councilor Clark, then approved 7/0.

5.1 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 AND PURSUANT TO §2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER

Vice-President McInturff moved to convene into executive session at 7:57 p.m. *The motion was seconded by Councilor Clark then approved 7/0.*

Councilor Hill moved to reconvene in open session at 8:33 p.m. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

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:

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

6.0 Monthly Reports

6.1 Finance Department

7.0 Adjourn

Councilor Weber moved to adjourn the meeting at 8:34 p.m. *The motion was seconded by Mayor Minor then approved 7/0.*