

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
July 23, 2013
City Council Chambers – Rouss City Hall**

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

ABSENT: Councilor Jeff Buettner; Mayor Elizabeth Minor (2)

1.0 Call to Order – President Willingham called the meeting to order at 6:00 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.)

Robert Palmer of 320 Russelcroft Road stated he has been in Winchester since 1962, built his house in 1963 and was annexed in 1970. They had no sidewalks or storm drains in those days because they were living in an old field on a dead end street. Since then, the area has been developed and Russelcroft Road was extended out to Tevis Street but sidewalks have not been installed. Frederick Douglas School was constructed in 1990 and received sidewalks along with the new constructed area but not the old Cedarmeade area. They now have neighborhood children walking to and from school in the street. On the weekends and in the summer, the kids are riding their bicycles and playing in the streets. They are sharing the streets with the cars and trucks because they have no sidewalks. This is not a good situation especially in the winter time with the shorter days and drivers cutting through Cedarmeade to get to Whentworth Drive when it is wet, rainy, or icy. He stated it is fortunate that so far there have not been any fatalities but we are pushing our luck. They need sidewalks on the streets in the old Cedarmeade area. In the Sidewalk Master Plan, it talks about the priorities and lists sidewalks around the schools as priority B. He thinks sidewalks around schools should be priority A. In the city, if you live near a school but do not have a major street to cross, you are required to walk to school. The kids in his area are required to walk and they walk down the street. The only street listed on the map in the plan as priority B is Whentworth. The other streets in the area are priority C. He stated according to the maps, Middle Road has a higher priority than Cedarmeade. He does not see any kids walking to school on Middle Road. He stated according to the plan the earliest timeframe for new construction is 2015 and that is for Middle Road. He strongly suggested the list be reworked to add old Cedarmeade for new sidewalk installation before any other part of the city and the sooner the better.

Chris Hahn of 649 Treys Drive stated he is the Director of Engineering at O'Sullivan Films. He has lived in Winchester since 1994 and has worked at O'Sullivans since 1999. Part of his job responsibility includes management of their

environmental program so he is very familiar with the relationship they have with the community and neighbors. One of things they take very seriously is they want to be a good neighbor in the city and have a very good track record in terms of the relationship with the city and their neighbors. Since he has been there, they have never had a complaint from neighbors about noise, odors, or anything like that. He stated he is here to speak about the rezoning proposal associated with the Jubal Square project to build apartments adjacent to their fence line. There are two concerns. One is the potential for restrictions on their ability to build on that property on their side of the fence line. They have concerns that there will be restrictions on how close they can build to the fence and there may be restrictions to their future expansion. The other concern is the fact there would be residential housing right adjacent to the property which is a 24 hour, 7 day a week, 365 day a year manufacturing facility. In the course of their operations, they do make noise. They do make sounds. They have had no complaints from their neighbors but they are concerned that with apartment residents living right next to their fence line, the residents will be complaining to them and the City about normal noise coming from their operations. He stated he walked the fence line today to see what the potential residents will hear and you can hear the hum of machinery, fans turning, and pumps pumping. It is not offensive to anyone right now because most of their neighbors are commercial and in many instances there is a buffer by another building or structure. But, with the plans they have seen, that would not be the case with this case. He stated their principle concern is they would have complaints from the new neighbors and the City would have complaints from the neighbors. To make this tangible, he invited Council to come and walk the property where the development would be to hear what a new resident might hear so they could consider that when making their decision. If the rezoning is approved, they would ask there be a requirement for sound protection to be built so they mitigate this. They would also like to have a letter in terms of their ability to expand so there are no restrictions on their property going forward.

Sam Leinbach of 317 Fairmont Avenue stated this last weekend, Winchester had a parade to honor the Buffalo Soldiers that had a very notable time in Winchester after the Civil War, the 60th anniversary of the end of the Korean War, and the dedication of the memorial at the park. After that, there was the parade put on by the Winchester Host Lions. The Lions have put on the Apple Blossom Parade for 73 years and all of the Christmas parades but this was the first summer parade. He is a member of the Lions and he was in front of City Hall from 11:00 a.m. to 1:30 p.m. He stated Saturday was a very, very hot day with the comfort indexes around 110 – 115 degrees. There was water for the people in the Lions Club but for nobody else. It is important to hydrate. Plus, if you have a problem, you have to have cooling centers. Some people said let's run into City Hall but the lady who with the keys to City Hall said it was a lot hotter in City Hall than on the street. That is unacceptable. Like in a lot of service clubs, Winchester Lions being one of them, people are getting older. You have old people putting on these parades which was the case on Saturday. To quote their president, Steve Baker, "it was ill conceived and poorly executed" and he absolutely agrees. He stated if this is done again in the future, it won't be the Lions Club because they are not going to hack it. The City is going to really have to put some time and thought into it. You will have to put water out for those doing the parade, riding in the parade, or just on the

sidewalk. If someone has a problem, the only aide station was at the end of the parade. You would have had to walk 10 blocks to tell someone you didn't feel good. He knows there are things worth doing but if this is done again, some thought will need to be put into it. He stated there were people here from Baltimore and Washington that had never been to Winchester. There are a lot of things to see in Winchester but there was nobody letting people know what there is to do. He suggested having the parades in the fall or winter or even in the evenings instead of the hot, summer days.

President Willingham asked if there was anyone else who would like to address Council. Seeing none, he closed the Public Comments at 6:12 p.m.

3.0 Items for Discussion:

3.1 Strategic Plan Quarterly Update

Assistant City Manager Doug Hewett presented an update on the progress made during the second quarter to the projects outlined in the City's Strategic Plan.

3.2 R-2013-35: Resolution – Authorization to apply for a Downtown Improvement Grant in the amount of \$25,000 from the Virginia Main Street Program to provide a matching source of up to \$5,000 for façade loans

Downtown Manager Jennifer Bell presented the request to apply for a Downtown Improvement Grant to create incentives for downtown businesses to work on their facades.

Councilor Weber moved to forward R-2013-35 to Council. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

3.3 R-2013-34: Resolution – Authorization to apply for a Hardware Grant in the amount of \$1,000 from the Virginia Fire Service Board to support the current electronic record management software

Fire Chief Allen Baldwin presented the request to apply for a grant to purchase a laptop to be used for training purposes and the special events.

Councilor Weber moved to forward R-2013-34 to Council. *The motion was seconded by Councilor Clark then approved 7/0.*

3.4 R-2013-36: Resolution – Adoption of the Sidewalk Master Plan to be used as the City's guide for future sidewalk improvements

Utilities Director Perry Eisenach presented the proposal for a Sidewalk Master Plan to be used for guidance on future improvements. In the plan, there is a 5 year proposal to complete maintenance and install new sidewalks based on three priorities. The priorities are the primary streets or arterial streets, sidewalks needed adjacent to schools or transit stops, and residential streets.

Over the 5 year period, there are over 2.5 miles of maintenance each year at a cost of \$1 million each year and 2.5 miles of new sidewalks and drainage each year at a cost of \$2 million each year. Staff will look for funding from VDOT and grant opportunities to help with the cost. The plan will need to be looked at and updated each year as a part of the budget process. He stated staff is asking Council to approve the sidewalk master plan as a guide but it does not obligate the funding each year. The funding plan does not include the property owners paying to maintain the sidewalks. The current city code states the property owners are to maintain and repair the sidewalks when they are in poor condition. However, this has not been enforced over the years and staff believes that trying to start enforcing that section of the code would be problematic if done now.

Councilor Weber stated he supports repealing this but wanted to remind everyone that it is the responsibility of the property owners to remove ice and snow from their sidewalks.

President Willingham asked if there was any way to extract what is not included in the 5 year plan so Council knows what the cost and total miles of that will be. Mr. Eisenach stated he could provide that information.

Vice-President McInturff moved to forward R-2013-36 to Council. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

3.5 O-2013-23: AN ORDINANCE TO REPEAL SECTION 26-7 OF THE WINCHESTER CITY CODE WHICH WOULD ELIMINATE THE REQUIREMENT FOR THE PROPERTY OWNER OR OCCUPIER TO BE RESPONSIBLE FOR THE MAINTENANCE OF THE PUBLIC SIDEWALK ADJACENT TO THEIR PROPERTY

Vice-President McInturff moved to forward O-2013-23 to Council. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

3.6 R-2013-38: Resolution – Authorization to apply and accept the Local Emergency Management Performance Grant for 2013 and to sign all documents necessary related to the grant

Emergency Management Coordinator Lynn Miller presented the resolution to accept funding from the Local Emergency Management Performance Grant.

Councilor Weber moved to forward R-2013-38 to Council. *The motion was seconded by Councilor Clark then approved 7/0.*

3.7 R-2013-37: Resolution – Acceptance of grant funding and authorization to execute all documents for the Certified Local Government Grant to amend and expand the Nationally-Designated Winchester Historic District

Planning Director Tim Youmans presented the follow up resolution to accept grant funding for the Certified Local Government Grant.

Councilor Weber moved to forward R-2013-37 to Council. *The motion was seconded by Vice-Mayor Veach then approved 6/0/1 with President Willingham abstaining.*

3.8 O-2013-24: AN ORDINANCE TO REZONE 44.44 ACRES AT 2410 AND 2416 PAPERMILL ROAD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT RZ-13-289

Mr. Youmans presented the request to rezone the former Federal Mogel property to Highway Commercial zoning to discourage additional truck traffic on Pleasant Valley Road.

Councilor Weber asked if any capping is required in any of the waste land. Mr. Youmans stated he didn't think any of it had been exposed in a number of years.

Councilor Weber expressed his concern that if the property is rezoned who is going to mitigate the issues with the building itself. Economic Redevelopment Director Jim Deskins stated the mitigation is currently underway and the asbestos is being removed according to the EPA.

Councilor Tagnesi moved to forward O-2012-24 to Council. *The motion was seconded by Vice-Mayor Veach then approved 7/0.*

3.9 O-2013-25: AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY RZ-13-196

Mr. Youmans presented the proposal to rezone 3 parcels of land to Highway Commercial (B-2) with Planned Unit Development (PUD) overlay. He stated there would be no change to any Corridor Enhancements along the street. Mr. Youmans presented a layout of the proposed development that would have access off of Valley Avenue and only right in/right out onto Jubal Early Drive. The applicant is proposing green buffering along Jubal Early Drive and along the M-2 boundary line adjacent to the O'Sullivan Films property and existing commercial development on Valley Drive. Each building will be 3 – 3.5 story buildings with a clubhouse. Staff did receive an updated proffer statement at the Planning Commission meeting that addressed the 3 bedroom units and the 2 bedroom units with a den. Mr. Youmans stated he does not think the 9th proffer can be enforced to show preference to Shenandoah University students or current Winchester residents. The plan addresses the need for additional housing. SU President Tracy Fitzwater indicated they are expecting 3,500 students and have housing for 900 of them. This is a residential only project compared to a mixed use projects so it is inconsistent with the Comp Plan. He stated from a traffic impact, Utilities Director Perry Eisenach looked at it and

suggested minor changes but said the 140 units would not create a burden. Staff did receive correspondence from O'Sullivan Films expressing their concerns about the proximity issue. The applicant has also agreed to construct 10 foot sidewalks to incorporate into the Green Circle Trail. There are a number of aspects of the plan that are consistent with the Comp Plan but the aspect that is not is it is not mixed use. The Planning Commission did forward it with a 4/2/1 vote.

Councilor Weber expressed his concern with the traffic impact on the area. He stated he would like to see something in the lease agreement that states any tenant must sign an acknowledgment that there is noise. He believes condition 9 is against the Fair Housing Standards. He cannot support this proposal.

Councilor Tagnesi stated this is no different than the Racey Meadows proposal in that it has not addressed the cost to the schools.

Councilor Clark expressed his concern with the 3 bedroom units having a lot of families. He stated his concern with having a significant fence or barrier to prevent children from going onto the O'Sullivan property.

Councilor Veach stated he is struggling with it because of the affordability to the City. He is concerned with the financial impact statement numbers and the number of students in the schools. He would like to see more information or the elimination of the three bedroom units.

Councilor Hill stated he has similar concerns as the other councilors with the cost to the City and the traffic.

Vice-President McInturff stated he would be in favor of giving the applicant the consideration to address some of these issues and come back to Council at a follow up date rather than refusing this now. He is concerned with the number of school children. If the applicant is confident there will only be 10 children, they should be comfortable putting in additional proffers for the schools.

President Willingham stated Council knows there is a need for housing. When talking about the 3 bedrooms, there is definitely a school impact that has not been mitigated at all. Second, it is not about today but what this could be 15-20 years from now. Council wants to encourage market rate new development.

4.0 Liaison Reports

No reports were presented.

5.0 Open Discussion

Vice-President McInturff stated at the regular meeting two weeks ago, Council discussed the red light cameras proposal and he motioned to table the item which eliminated discussion from Council. He made an error. He suggested making a policy to not immediately table an item until after the discussion.

President Willingham suggested the following items:

1. Consider asking Mr. Iman to come up with a policy for grant applications to allow for more efficient use of staff time.

Mr. Iman stated some grants require a resolution approved by Council. He suggested placing a limit on the local match before a grant is required to come to Council and approving the redundant grants through the budget process.

2. Create better communications or a City app to disburse information regarding Splash Pad maintenance to parents.

3. School Board has asked Council's desire to move forward on the RedFlex School Bus Cameras.

Mr. Williams stated procurement calls for the Schools to do that not the City. All Council's action would be is to pass an ordinance to allow them to do it. Council would need to know how they want to proceed before talking about it.

4. Would like to have updates on the progress with the Triangle Diner.

Mr. Iman stated he met with the owners of the diner and made a strong point that they need to make strong exterior progress. Staff did receive an email that stated the owner was signing a contract but wanted to update the gas lines before doing the parking lot. The City does have the latitude to revoke their permit if needed.

President Willingham asked for continued updates on the progress.

Councilor Tagnesi stated he is getting complaints regarding the rough railroad crossings and suggested putting up warning signs before the crossings.

Councilor Weber expressed his concern with people riding their bicycles on the sidewalks in the secondary district with all of the doors that open directly onto the sidewalk. He asked what the code allows for riding bicycles on sidewalks.

Mr. Iman stated he believes the ordinance allows riding on sidewalks but he will look into it to see if a code change is required.

6.0 Executive Session

- 6.1 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.**

Vice-President McInturff moved to convene into executive session at 8:08 p.m. *The motion was seconded by Councilor Weber than approved 7/0.*

Vice-Mayor Veach moved to reconvene in open session at 8:34 p.m. *The motion was seconded by Vice-President McInturff 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	Absent
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
Councilor Weber	Aye
President Willingham	Aye

7.0 Adjourn

Councilor Clark moved to adjourn the meeting at 8:35 p.m. *The motion was seconded by Councilor Weber then approved 7/0.*