

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
August 20, 2013
City Council Chambers – Rouss City Hall**

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

ABSENT: Councilor Jeff Buettner; Vice-Mayor Les Veach (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)

Kathleen Erickson Nord of Above and Beyond Holistic Services at 9 West Jubal Early Drive stated signs have been on her mind a lot because her business has suffered greatly from having to take her signs down. In the past month, she has not sold any of the gluten free products on her shelf because she does not have signs out front indicating she has them. The sign ordinance as it has been previously written is not business friendly to the small business community which is one of her complaints. The small business owners should be treated with a lot more respect so they can get their job done in serving the community. She stated signs serve a purpose in the business world. They get the word out there and encourage people to come in and buy and use the services. Anyone who thinks the signs indicating activity inside are a nuisance, they are not. People actually look at them. Shopping malls all over the country that are really thriving and prosperous have proper signage. Places that don't have good signage don't have good business. She stated some businesses don't need that many signs. Some only need one or two but some need more like her. She asked Council to consider the small business people as a help and not a hindrance in conducting business, to bring customers in, and to pay the bills. She is down at least \$1,500 in her ledger since taking her signs down and she does not know how she will recover that. She asked Council for their cooperation to help her out and other small business people like herself. She stated she really wants to cooperate with the community but she also wants to make a living. She signed a long term lease and she intends to be here for at least 10 years. She asked Council to please help her and other businesses that are here to make a good image in the community but also earn a living.

Dennis Nord of 9 West Jubal Early Drive stated there are a number of flaws in the amendment as it is written. They may be corrected as he has an old copy but he wanted to point them out. The amendment allows 3 temporary signs per property per year. His particular building has 5 tenants who would have to share the 3 signs over the course of a year. On South Loudoun, there is a plaza that has 8 tenants in the building. Further down at Loudoun and Weems, they have 16 tenants to share

3 signs each year. Pineville Plaza on Weems has 22 tenants to share 3 signs per year. It's not working. He stated under paragraph 18-8-12.3(a) about sale, promotion and grand opening signs, it talks about 1 sign per tenant for 10 days per month with a maximum of 4 feet in height unless the sign is attached to a building or free standing kiosk. He asked what happens if there is not a kiosk at the location and the landlord does not allow signs to be screwed into the building. He stated the sign would have to be put on the ground and then it becomes a portable sign which falls under a whole different set of regulations. Now, it can be up for 30 days with only 1 sign per property per road frontage. He stated the logic of the amendment is really not working out. Under the paragraph for signs that are prohibited, paragraph 13.4, it rules out anything that moves. That would include the popular feather flags that you see all over the place. The car dealerships live by those. The one exception to that are patriotic flags. He would direct Council to the McDonalds located at the corner of Jubal Early and Pleasant Valley that has 3 staffs out front. The large one in the center has the American flag, next to that is the Virginia state flag, and next to that is the McDonalds corporate flag. He asked if the City is going to ask them to take down the corporate flag because it is not patriotic. He also asked what the purpose of introducing a permit and a fee is. The city will not earn that much revenue from doing that. He would rather see taxes be raised and the city stop micro-managing their businesses. One the other hand, if the idea of a permit and fee is to discourage temporary signs because somebody thinks there are too many of them or they are ugly, he would say the ugliest signs in town are the ones that say available for rent, for lease, or for sale. There is a lot of empty commercial property in Winchester. He would rather see the city directing time and effort to trying to fill those businesses than trying to micro-manage the rest of them who are just trying to survive.

Donnie Unger of 661 and 663 North Loudoun Street stated he has spent the last multiple weeks meeting with quite a few people from the city discussing the issues. The only proposal he would like to make to City Council is that they allow him to have one whip per address. At his business, signage cannot be seen from the street. If City Council and the city would allow him to cut his trees down then it would be great but he doesn't want to. He can't top the trees, can't pull them out, and can't put different trees in. He is bound and people can't be read the signs on his building. If he can put one whip in, it would stop him from putting in a monument sign at 661. If he has to go that route, he will have a nice lighted sign at 661 but he doesn't really want to go that route.

3.0 Items for Discussion:

3.1 O-2013-14: AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT TA-13-138 (*Revision to temporary sign provisions and permit requirements*)

Aaron Grisdale, Director of Zoning & Inspections, presented the proposed changes made since meeting with the Chamber of Commerce, the Museum of the Shenandoah Valley, and local businesses. The changes include the

following: changing the allocation of temporary signs from a per property allocation to a per business/tenant allocation; increasing the number of temporary signs that can be issued per tenant from 3 to 4 per year; providing a spacing requirement for temporary signs on a parcel so that two signs cannot be located within 100 feet; changing the allocation of portable signs to per tenant instead of the number of street frontage; and changing the proposed fee from \$40 to \$25 per temporary sign to cover the staff time involved in processing the permits. He stated the ordinance also creates several definitions for clarification, prohibits signs that are set in motion by weather, and reduces the appeal time to the Board of Zoning Appeals to 10 days.

Councilor Weber asked if someone has seasonal signs, would they be able to put all of their signs on one permit and pay one fee. Mr. Grisdale said they would.

Councilor Weber asked if Section 18 could be explained in layman's terms. Mr. Grisdale stated it allows the City to put up a temporary sign for traffic measures in an emergency situation. Councilor Weber expressed his concern that such an open statement would not play well with the citizens and suggested tying it to health, safety and welfare.

Councilor Weber asked Mr. Unger about the trees on his property. Mr. Unger stated he has been told he cannot take them down. He can only trim them.

Councilor Weber asked if there is a way this could be looked at on a case by case basis. Mr. Grisdale stated that would be difficult to do and could become arbitrary.

City Attorney Anthony Williams stated for clarification on Section 18-8-2.4 the provision was added on his recommendation after the last time this was at the Council Work Session specifically to address some of the issues Mr. Grisdale spoke on. The reason it is so broad is the power and authority of all government flows from the sovereign. Our ability to go to VDOT and say we don't think you need those signs because of XYZ is extremely limited. Accordingly, if Council is looking at revising this section, he would encourage you not to try to narrow that section because he thinks it would be a recipe for a potential lawsuit. He thinks that section needs to be in there as drafted in order to prevent a situation where we think one thing about a sign and another government thinks something else.

Councilor Hill expressed his concern about signs in windows and in buildings in regards to safety. Mr. Grisdale stated it is a subject that has come up but is not in this amendment. If Council desires, it can be looked at.

Vice-President McInturff asked why the trees on Mr. Unger's property can only be trimmed. Mr. Grisdale stated the Zoning Ordinance has certain landscaping requirements for commercial properties and the number of street

trees is one of those provisions. His understanding is those are required street trees per the commercial development plan.

Planning Director Tim Youmans stated a number of years ago the property owner asked the City to allow him to put the trees otherwise required by City Council to be out along the street frontage. There is a city wide ordinance prohibiting topping trees but we encourage property owners to maintain trees and limb them up. With mature trees, you get a better situation by limbing up the bottom branches to have a better view into the windows versus constantly trying to top the trees. That was a special accommodation the City made with the prior owner and would be certainly willing to work with the current owner. The City is about to undertake a sidewalk replacement project up there and will be working with all property owners on that matter.

Mayor Elizabeth Minor moved to put O-2013-14 on the August 27th Work Session agenda for more discussion. *The motion was seconded by Councilor Clark then approved 7/0.*

3.2 O-2013-26: AN ORDINANCE TO MODIFY SECTION 14-53 OF THE WINCHESTER CITY CODE PERTAINING TO PROHIBIT PARKING IN LOADING ZONES (*Limits parking in a loading zone to 15 minutes*)

Police Chief Kevin Sanzenbacher presented the ordinance to limit the length of time for parking in a loading zone. He stated this issue came up when Council was looking at deliveries on the mall. Now that deliveries are allowed, the goal is to make sure people have adequate time to make their deliveries and move on. He stated he has followed up with Officer Jenkins and Richard Webber of the Parking Authority and they are against limiting the amount of time. They would like to approach it from a customer friendly point of view. He has also heard from downtown merchants who would like to have the time extended which would defeat the goal of turnover.

Councilor Weber moved to amend to time to 30 minutes. The motion was seconded by Councilor Clark.

Vice-President McInturff stated he is wondering if this is a solution looking for a problem. When this was started, the thought was we would not have traffic downtown. He is concerned a time frame is not needed since traffic is allowed now.

Chief Sanzenbacher stated from looking at the citations, the department has voided about 25% of the citations because people were up in their apartments and the officer did not see them.

Councilor Weber withdrew his motion based on the comments made by Council and the Chief.

President Willingham stated the consensus of Council is to do nothing on O-2013-26.

3.3 R-2013-39: Resolution – Adoption of the Street Maintenance Master Plan to be used as the City’s guide for future street maintenance program

Utilities Director Perry Eisenach presented the proposal for the Street Maintenance Master Plan. He stated in the current budget, there is \$900,000 for street paving. The City has 221.5 miles of streets to maintain. VDOT does not do any street maintenance in the city. He stated the question is how often a street should be repaved in order to keep it in shape. The arterial streets which have more traffic and need more maintenance should be done about every 15 years, the collector streets should be done about every 20 years, and the residential streets should be done about every 25 years. On average, the City should be repaving 10.5 lane miles a year to meet that goal. However, between 2005 and 2012, the City has average 7.5 lane miles per year. He stated the proposed plan is a 3 year plan to accommodate the rapid changes in streets that could occur. The streets will be prioritized by the type of street, traffic volumes, and actual condition of the streets. The plan would complete 12.5 lane miles per year. He stated each year, the City receives money from the State based on lane miles for road maintenance but it is not enough money to accomplish that amount of paving. In recent years, a lot of paving has been done with the utility projects and that will continue in the future. In the current year, the general fund is providing \$650,000 for paving and that will be ramped up over the next two years. This master plan will need to be looked at each year to make adjustments. He also recommended crack sealing as a procedure to help maintain the streets.

Vice-President McInturff moved to forward R-2013-39 to Council. *The motion was seconded by Councilor Hill then approved 7/0.*

3.4 R-2013-40: Resolution – Approval to create a formal policy for Council review and approval of grant applications

City Manager Dale Iman presented a proposal for a more efficient grant process policy. He stated the new policy would include all grants be approved during the budget process. Grants requiring a match of over \$25,000, impacting personnel costs, or requiring a resolution would come before Council. Those requiring a resolution would have language authorizing the City Manager to do all things necessary to execute the grant. The City Manager would report all grants to Council through his reports or other activities.

Mayor Minor moved to forward R-2013-40 to Council. *The motion was seconded by Councilor Hill then approved 7/0.*

3.5 Discussion: Reformation of the Community Development Committee and Economic Development Authority

Assistant City Manager Doug Hewett presented the proposal to consolidate the Community Development Committee’s functions into a new committee

constituted with members of the Economic Development Authority. The CDC would only convene when necessary and would do so at the end of the regular EDA meeting.

Councilor Clark stated it seems the goals of each board are at odds and therefore he cannot support this.

City Manager Dale Iman stated the EDA embraced the idea of looking at the challenge of changing the pattern of rental vs. home ownership in residential areas. On the other hand, the CDC does not have enough business.

Vice-President McInturff stated for clarification, the CDC is not being moved to the EDA because of a lack of interest. It is more that the duties of the CDC have been moved over time and the committee has nothing to do. He asked if staff sees the CDC branching off the EDA after the CDBG funds come in.

City Attorney Anthony Williams stated the EDA is a separate body and entity from the City. Council has appointed the members but they are separate. This would be a concurrent appointment because the CDC duties cannot be given to the EDA. The EDA duties are set by statute.

Councilor Clark stated he would like to revisit this at the end of the CDBG funds 4 year period.

3.6 Discussion: Creation of “Green Team” Sustainability Taskforce

Assistant City Manager Doug Hewett presented the proposal to create a “Green Team” Sustainability Taskforce that would combine the duties of the Tree Commission and the Natural Resource Advisory Board. The taskforce would be created for a time limited period and would be given a specific set of tasks to address.

Vice-President McInturff expressed his concern with some of the language describing the expanded issues and stated he did not want to see a situation where an advisory board takes on a life of its own.

4.0 Executive Session

President Willingham asked for a motion to add the discussion of personnel matters to the executive motion. *The motion was made by Vice-President McInturff, seconded by Mayor Minor, then approved 7/0.*

- 4.1 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 7:59 p.m. *The motion was seconded by Councilor Weber then approved 7/0.*

Vice-President McInturff moved to reconvene in open session at 9:16 p.m. *The motion was seconded by Councilor Weber 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 | Aye |
| Vice-Mayor Veach | Absent |
| Councilor Weber | Aye |
| President Willingham | Aye |

5.0 Liaison Reports

No reports were presented.

6.0 Monthly Reports

6.1 Police Department

6.2 Fire & Rescue Department

7.0 Adjourn

Mayor Minor moved to adjourn the meeting at 9:16. *The motion was seconded by Councilor Clark then approved 7/0.*