

**MINUTES OF THE COMMON COUNCIL  
WORK SESSION  
November 25, 2014  
Council Chambers – Rouss City Hall**

**PRESENT:** Councilor Evan Clark, John Hill, Corey Sullivan and John Tagnesi; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach; President John Willingham (8)

**ABSENT:** Councilor Jeff Buettner (1)

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)

*President Willingham asked if there was anyone wishing to address Council. Seeing none, he closed the public comments at 6:00 p.m.*

**3.0 Items for Discussion:**

**3.1 Presentation:** Non-Profit Organization Activities Subject to Local Taxation

Commissioner of the Revenue Ann Burkholder stated some special events hosted by non-profits may be subject to taxation. When determining the exemption from taxation the nature of the entity and the nature of the event must be looked at. A non-profit classification does not guarantee exemption unless it is a 501-C3 which is defined by the IRS as charitable. The special events held by the charitable non-profits need to be looked at to determine if meals or admission taxes should be collected. Council will want to consider the impact of the costs on the organizations and whether the City wants to recoup some of the costs associated with the special events such as police services or extra trash collections. The outside vendors who are usually at a special event would be subject to taxation. They do not fall under the non-profit nor do they pay a fee to be there in lieu of paying taxes. Typically, the City tries to assess a \$30 flat itinerant merchant fee on the vendors with a \$500 cap for large groups of vendors such as those with a carnival. It has been difficult for the Commissioners and the Treasurer's offices to gather the licenses and fees from the vendors who show up at the last minute or leave town right afterward and do not contact the offices. The events often occur on the weekends or at night when the offices do not have staff available to impose the fees at the events. Historically, this area has not been addressed and will come as a surprise to the establishments. Therefore, the two offices have completed extensive research and have decided to implement the taxes beginning January 1, 2015. They have tried to identify as many organizations as possible that will be impacted and

will send a courtesy letter explaining the code, work with them to get organizational information and proceed that way.

**3.2 O-2014-45:** AN ORDINANCE TO AMEND AND REENACT ARTICLE 17 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO NONCONFORMING USES AND VESTED RIGHTS. (TA-14-476)

Director of Zoning and Inspections Aaron Grisdale presented the public sponsored amendment to revise Article 17 dealing with nonconformities. He stated the amendment allows for better readability and organization to allow citizens and businesses a better understanding of the general provisions, nonconforming structures, nonconforming uses, and nonconforming lots.

Vice-President McInturff moved to forward O-2014-45 to Council. *The motion was seconded by Mayor Minor then approved 8/0.*

**3.3 CU-14-640:** Conditional Use Permit – Request of Joshua Schakola on behalf of Verizon Wireless for a conditional use permit for modifications to a telecommunication tower at 701 Fairmont Ave (Map Number 153-01- -2-A) zoned Limited Industrial (M-1).

*Mr. Grisdale requested the item be removed from the agenda due to a scrivener's error.*

**3.4 O-2014-48:** AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 10, 11, 12, 13, 15, 15.1, 16, 16.1, 18, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO TELECOMMUNICATIONS FACILITIES, PERMIT AND REVIEW REQUIREMENTS, AND FEES. (TA-14-645)

Mr. Grisdale presented the Council initiated ordinance to streamline the requests for telecommunication facilities. He stated the ordinance would restructure the requests into the categories of new facilities, major modifications, and minor modifications. The minor modifications would be reviewed by the Zoning Administrator and not need to be seen by Council.

Mayor Minor moved to forward O-2014-48 to Council. *The motion was seconded by Councilor Hill then approved 8/0.*

**3.5 O-2014-46:** AN ORDINANCE TO REZONE 0.064 ACRES OF LAND AT 116 W. LEICESTER STREET (Map Number 192-01-S-12) & 118 W. LEICESTER STREET (Map Number 192-01-S-13) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY TO RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY. (RZ-14-625)(*The proposed rezoning would permit up to 2 units.*)

Planning Director Tim Youmans presented the request to rezone 116 and 118 West Leicester Street to RB-1 District. This rezoning will allow the applicant to

build one townhome on each lot. Four citizens spoke at the Planning Commission meeting in opposition of the request but the Planning Commission did move it forward with a recommendation for approval.

Vice-President McInturff moved to forward O-2014-46 to Council. *The motion was seconded by Vice-Mayor Veach then approved 8/0.*

- 3.6 O-2014-47:** AN ORDINANCE TO REZONE 0.736 ACRES OF LAND AT 2508 PAPERMILL ROAD (Map Number 291-03- -1) FROM INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING TO COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING. (RZ-14-639) (*The rezoning would permit retail development in conjunction with the adjoining property to the south.*)

Mr. Youmans presented the request to rezone a section of the property located at 2508 Papermill Road to Commercial Industrial District to allow for retail development.

Councilor Clark moved to forward O-2014-47 to Council. *The motion was seconded by Mayor Minor then approved 8/0.*

- 3.7 CU-14-637:** Conditional Use Permit – Request of Ben Pelletier on behalf of Verizon Wireless for a conditional use permit for modifications to a telecommunication antennas at 1955 Valley Avenue (Map Number 251-01- - 5) zoned Limited Industrial (M-1).

Mr. Youmans presented the request to remove 12 of the existing 15 antennas situated on the existing multi-story structure of the Virginia Apple Storage.

Vice-President McInturff moved to forward CU-14-637 to Council. *The motion was seconded by Councilor Hill then approved 8/0.*

- 3.8 CU-14-638:** Conditional Use Permit – Request of James Testa of Testa, Inc. for a conditional use permit single family detached dwelling at 2905 Shawnee Drive (Map Number 332-03- - 89) zoned Highway Commercial District (B-2).

Mr. Youmans presented the request to have a rental property located at 2905 Shawnee Drive. He stated this request does not change the zoning of the property.

Councilor Clark moved to forward CU-14-638 to Council. *The motion was seconded by Vice-President McInturff then approved 8/0.*

#### **4.0 Executive Session**

- 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, 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 INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS, AND PURSUANT TO §2.2-3711(A)(3) AND (6) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF THE ACQUISITION OF AN INTEREST IN REAL PROPERTY FOR A PUBLIC PURPOSE WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED.

Vice-President McInturff moved to convene into executive session at 6:57 p.m. *The motion was seconded by Mayor Minor then approved 8/o.*

Councilor Sullivan moved to reconvene in open session at 8:16 p.m. *The motion was seconded by Mayor Minor then approved 8/o.*

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 Sullivan	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

NOTE: Councilor Tagnesi stated he certified only the portions of the Executive Session for which he was present.

## **5.0 Adjournment**

Vice-President McInturff moved to adjourn the meeting at 8:16 p.m. *The motion was seconded by Mayor Minor then approved 8/o.*