

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
November 23, 2010
City Council Chambers – Rouss City Hall**

PRESENT: Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major (6)
ABSENT: President Jeff Buettner; Vice-Mayor Michael Butler; Mayor Elizabeth Minor (3)

Vice-President Major called the meeting to order at 5:30 p.m.

Discussion: Inebriate Center - Bruce Conover

Superintendent Bruce Conover gave a summary of the programs within the Frederick County Court Services and the functions of Starting Point and the Inebriate Center. He stated effective July 1, all intervention services were eliminated and the hours of operation were reduced, a new director has been hired, staff has been reduced by 3 personnel, and data has been collected on the costs. A Fee for Service program has begun charging individuals \$40, the previous amount charged to walk-ins. However, the direct costs have been determined to be \$94.62 per inebriate. The jail cost is lower but it does not include the arresting officer's court appearance cost and processing time for the arrest totaling \$105.00. This cost can be reduced by increasing the hours of operation to 16 hours to catch more inebriates. The only thing operating now is the Inebriate Center. Frederick County has agreed to fund the rest of the year but is asking Council for a commitment for funding in FY12.

After a brief discussion, Vice-President Major expressed his appreciation to Mr. Conover for attending the meeting and stated he would like to discuss this issue more at budget time.

New Business:

CU-10-588: Conditional Use Permit - Request of S&J Enterprises dba Buffalo Wild Wings for a conditional use permit for nightclub use at 5 Weems Lane (*Map Number 271-04-1*) zoned Highway Commercial (B-2) District.

Zoning Administrator Vince Diem stated the current CUP for this establishment does not expire until April 2011 but the applicant is requesting to add addition elements and expand the number of days to operate a night club.

Councilor Willingham moved to forward CU-10-588 to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

CU-10-590: Conditional Use Permit - Request of Winchester Medical Center for a conditional use permit for personal service and retail use at 401 Campus Boulevard (Map Number 149-03-1) zoned Medical Center (MC) District.

Mr. Diem stated the request is part of an ongoing effort by Winchester Medical Center and Valley Health to address issues of noncompliance in the use of occupancy. There are certain elements of the retail center within the Wellness Center that were not previously identified that would require an additional CUP. The CUP is to address the retail sales and the personal services such as massage therapy and personal trainers. The Planning Commission recommended approval with 3 conditions.

Vice-President Major moved to forward CU-10-590 to Council. *The motion was seconded by Councilor Veach then approved 5/0. Councilor Willingham recused himself.*

CU-10-593: Conditional Use Permit - Request of Velocitel on behalf of Clearwire for a conditional use permit for collocation of antennas on an existing telecommunications tower and associated ground support equipment at 799 Fairmont Ave (Map Number 153-01-2) zoned Limited Industrial (M-1) District.

Planning Director Tim Youmans stated the request is to add three antennas to an existing tower. The Planning Commission recommended approval.

Councilor Veach moved to forward CU-10-593 to Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

O-2010-69: First Reading - AN ORDINANCE TO REZONE 0.056 ACRES OF LAND AT 210 BAKER STREET (Map Number 174-1-F-6) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO RB-1 DISTRICT AND TO REZONE 0.051 ACRES OF LAND AT 211-213 BAKER STREET (Map Number 174-1-G-13) FROM LIMITED HIGH DENSITY RESIDENTIAL (HR-1) DISTRICT WITH HW DISTRICT OVERLAY TO HR-1 DISTRICT RZ-10-601

Mr. Youmans stated the request is a city sponsored rezoning in conjunction with the Baker Street Renovation Project to change the overlaying zoning. This would not alter the National Historic District. Research has been done on the properties and no significant architectural features were found. The request does not include acquisition of property or the expenditure of money. The Planning Commission recommended approval.

Councilor Willingham moved to forward O-2010-69 to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

O-2010-70: First Reading - AN ORDINANCE TO VACATE A 150' LONG PORTION OF A PUBLIC ALLEY LOCATED BETWEEN 519 AND 523 VIRGINIA AVE AND CONVEY IT TO ONE OR MORE ADJACENT PROPERTY OWNERS SV-10-607

Mr. Youmans stated the applicant would like the alley use discontinued and conveyed to him and the owner of 519 Virginia Avenue. The request is complicated because the original subdivider retained a 6 inch spike strip in the alley that has never been removed. The request is the result of a code enforcement action regarding a chain link fence the applicant installed. There would still be alley access through other avenues but it would be less convenient for the residents. Staff feels the request is not ready to come forward because of the spike strip and the applicant does not have the endorsement by the owner of 519 Virginia Avenue. The Planning Commission recommended disapproval of the request due to the uncertainty of the spike strip and future development.

Councilor Willingham moved to table O-2010-70. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

R-2010-69: Resolution – Approval of VDOT Project Administration Agreement for Amherst Street Improvements Project

Utilities Director Perry Eisenach stated staff requested and were approved for funding in the amount of \$400,000 for the Amherst Street Improvements Project.

Councilor Willingham moved to forward R-2010-69 to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

O-2010-71: First Reading – AN ORDINANCE TO DENY THE APPLICATION OF WINCHESTER MEDICAL CENTER FOR TAX EXEMPT STATUS BY CHARITABLE ORGANIZATION PURSUANT TO 27-33 OF THE WINCHESTER CITY CODE

Councilor Veach moved to table O-2010-71. *The motion was seconded by Councilor Clark then approved 5/0 with Councilor Willingham abstaining.*

R-2010-70: Resolution – Approval for reallocation of \$70,000 CDBG Funds

Social Services Director Carla Taylor stated the \$70,000.00 allocated to the Douglas Learning Center for revitalization of the building has been put on hold. The CDC recommended reallocating the money to be used in a timely manner. A paragraph has been added to the resolution to insure the projects are complete within 6 months and the money is spent in a timely manner.

Vice-President Major stated he would like to concentrate the funds to get one project done completely and suggested giving all the money to NW Works since they are getting to the finish line and then giving the Laurel Center money in the future.

After a brief discussion, Councilor McInturff moved to shift the money from the Laurel Center to NW Works. *The motion was seconded by Councilor Veach then passed 4/2 with Councilors Clark and Hill voting in the negative.*

The amended resolution was unanimously approved by voice-vote.

EXECUTIVE SESSION

MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(3) OF THE CODE OF VIRGINIA FOR CONSULTATION WITH LEGAL COUNSEL TO RECEIVE LEGAL ADVICE AND STATUS UPDATE ON A MATTER OF PROBABLE AND PENDING LITIGATION

Councilor McInturff moved to convene into executive session at 6:54 p.m. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

Councilor Veach moved to reconvene in open session at 8:01 p.m. *The motion was seconded by Councilor 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
Vice-Mayor Butler	Absent
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Absent
Councilor Veach	Aye
Councilor Willingham	Aye
President Buettner	Absent

Councilor Willingham certified only the portions he was present for.

Adjournment

Councilor Willingham moved to adjourn the meeting at 8:01 p.m. *The motion was seconded and approved unanimously.*