

D-26872

Summary of Minutes

April 18, 2005

A Regular Meeting of the Winston-Salem City Council was held on Monday, April 18, 2005 at 7:30 p.m. in the Council Chamber at City Hall, Mayor Allen Joines presiding and the following members present:

Members Present:	Vernon Robinson	Vivian H. Burke
	Robert C. Clark	Nelson L. Malloy, Jr.
	Dan Besse	Wanda Merschel
	Joycelyn V. Johnson	

Member Absent: Frederick N. Terry

Secretaries: Renée P. Henderson, City Secretary; Paige L. Deal, Recording Secretary

Sergeant at Arms: Lieutenant C. W. (Bill) Cobb and Lieutenant D. L. (David) Kiger

Invocation: Pastor Scott Vernon of Calvary Baptist Church

Pledge of Allegiance

Mrs. Henderson read for the following resolution:

RESOLUTION RECOGNIZING APRIL 24-29, 2005 AS NORTH CAROLINA AIR AWARENESS WEEK

Council Member Besse: Motion for adoption.

Council Member Johnson: Second. Unanimous.

Council Member Besse presented a framed copy of the resolution to Mr. Pat Reagon of Forsyth County Environmental Affairs.

Mayor Joines thanked Council Member Besse for his leadership and work with the Early Action Compact.

Mayor Joines stated that the Council would deviate slightly from its standard procedure and

consider Item 1 on the General Agenda prior to taking up the Consent Agenda.

1. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF WAL-MART REAL ESTATE BUSINESS TRUST FOR PROPERTY OWNED BY MARTHA J. KEIGER, J. LEE KEIGER, EXL DEVELOPMENT COMPANY, INC., FAYNE D. CURTIS, OLD TOWN TELEPHONE SYSTEMS, INC., THOMAS H. ALLGOOD, AND JANET HOOKER FROM HB TO MRB-S (Shopping Center): Property located on the northeast side of Reynolda Road across from Wabash Avenue – Containing approximately 24.89 acres located in the NORTH WARD (Council Member Malloy) – Zoning Docket W-2756. *[Planning Board recommends approval of petition and site plan with staff recommendations. This item was continued from the April 4 Council meeting.]*

REQUEST OF ATTORNEY THOMAS E. TERRELL, JR. FOR WITHDRAWAL OF PETITION

Mayor Joines recognized Council Member Malloy.

Council Member Malloy commented that this matter has been of interest for almost a year and during that time, UDO-118 was developed to address large retail developments. He stated that he has received countless calls from people in favor and people opposed to this rezoning petition. He thanked all who contacted him and commended the citizens for being concerned about their neighborhood and the future of the city. Council Member Malloy pointed out that Wal-Mart wishes to no longer pursue development of a store at this location.

At Council Member Malloy's request, Mr. Philip Stewart of Stewart Realty, 8 West Third Street, addressed the Council and stated that he represented EXL Development Company who owns the majority of the property contained in this petition. He advised that once Wal-Mart decided to rescind its purchase agreement and withdraw the rezoning petition, EXL decided to pursue a buyer for the development of multi-family with limited commercial along Reynolda Road.

Council Member Malloy stated that taking Mr. Stewart's comments into account, he would make a motion for approval of the request to withdraw this rezoning petition.

Council Member Robinson: Second.

At the request of Council Member Merschel, Mr. Paul Norby, Planning Director, explained that if the petition is not withdrawn and the Council votes for denial, the same zoning request could not come back for two years from the date of the original filing. It could come back for a different zoning category after one year. Council approval of the request for withdrawal would allow a request for rezoning for any classification to reoccur without time restraints.

Council Member Merschel asked the City Attorney if the letter from Mr. Terrell is binding.

Mr. Ron Seeber, City Attorney, responded that this letter does not legally bind Wal-Mart. It may be accepted as a statement of intent and it would be up to Council to decide whether or not the letter is considered credible.

Mr. Tom Terrell, 300 N. Greene Street, Greensboro, spoke on behalf of Wal-Mart. He clarified that the intent of the letter of withdrawal is to be definitive. Wal-Mart will not come back and refile. Members of the Council expressed appreciation to the citizens who participated in this public process.

Council Member Malloy noted that Mr. Stewart and his client have offered to meet with the neighborhood when any viable proposal is available in order to share development information and receive feedback.

The motion for approval of the request for denial was unanimously carried.

Mayor Joines stated that the Council would now consider the Consent Agenda and asked if anyone wished to remove any items for separate discussion. Council Member Clark asked for

discussion on Items C-2 and C-8. Council Member Robinson stated he also wanted to discuss Item C-8. No other items were removed.

CONSENT AGENDA

All items listed below were enacted by one motion for approval or adoption, as appropriate, which motion is as follows:

Council Member Burke made a motion that these items be approved/adopted at this meeting.

The motion was duly seconded by Council Member Malloy and unanimously carried.

1. RESOLUTION APPROVING THE FEDERAL FY 04 HOUSING AND COMMUNITY DEVELOPMENT PROGRAM AND AUTHORIZING SUBMISSION OF THE 2005-2006 ANNUAL PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. *[Recommended by Finance and Community Development/Housing/General Government Committees.]*
3. CONSIDERATION OF ITEMS RELATING TO CITY CODE AMENDMENTS: *[Reviewed by Public Safety Committee.]*
 - a. ORDINANCE AMENDING SECTION 42-122(f) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS – *Lancaster Street, Chafain Drive, Thornaby Circle, Denby Drive, and Thornaby Drive .*
 - b. ORDINANCE AMENDING SECTION 42-97 OF THE CITY CODE RELATING TO WEIGHT LIMITATIONS ON THRU TRAFFIC ON CERTAIN CITY STREETS – *Cassell Street between Old Lexington Road and Rosie Street.*
4. RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WINSTON-SALEM AND THE COUNTY OF FORSYTH FOR THE COOPERATIVE USE OF A MOBILE DATA NETWORK SYSTEM. *[Reviewed by Public Safety Committee.]*

5. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR TRAFFIC CONTROL DEVICES. *[Recommended by Finance Committee. Reviewed by Public Works Committee.]*
6. RESOLUTION AUTHORIZING RELIEF TO THE OWNERS OF TAX BLOCK 680, TAX LOTS 3, 4, AND 5 OF THE REQUIREMENTS OF SECTION 74-181 OF THE CITY CODE RELATING TO MONMOUTH STREET – *Request of Worth E. Masencup, Jr. [Reviewed by Public Works Committee.]*
7. CONSIDERATION OF ITEMS RELATING TO STREET/ALLEY CLOSING PETITIONS: *[Reviewed by Public Works Committee.]*
 - a. RESOLUTION FIXING DATE FOR HEARING ON PETITION TO CLOSE AND ABANDON A PORTION OF TRADE STREET IN THE EAST WARD (Council Member Johnson) – *Petition of the City of Winston-Salem. Public Hearing: May 16, 2005.*
 - b. RESOLUTION FIXING DATE FOR HEARING ON PETITION TO CLOSE AND ABANDON A 20-FOOT ALLEY OFF OF CHAPEL STREET IN THE SOUTHEAST WARD (Council Member Terry) – *Petition of the North Carolina School of the Arts. Public Hearing: May 16, 2005.*
 - c. RESOLUTION FIXING DATE FOR HEARING ON PETITION TO CLOSE AND ABANDON A PORTION OF HIGHLAND STREET IN THE SOUTHEAST WARD (Council Member Terry) – *Petition of Ralph J. Cochran. Public Hearing: May 16, 2005.*
9. ORDINANCE AMENDING THE PROJECT BUDGET ORDINANCE FOR THE CITY OF WINSTON-SALEM FOR FISCAL YEAR 2004-2005 – *Appropriation of Grant Funds from Reynolds American Tobacco Company for a Domestic Violence Prevention Program. [Recommended by Finance Committee.]*
10. CONSIDERATION OF ITEMS RELATING TO BIDS: *[Recommended by Finance Committee.]*
 - a. RESOLUTION AWARDED CONTRACT FOR PURCHASE OF PERSONAL COMPUTERS, LAPTOP COMPUTERS, MONITORS, AND ACCESSORIES – *Dell Marketing, LP - \$294,713.40.*
 - b. RESOLUTION AWARDED CONTRACTS FOR TRUCKS – *Terry LaBonte Chevrolet, \$704,826.00; Parks Chevrolet, Inc., \$167,476.53; Flow Chevrolet, LLC, \$510,452.00; Morehead City Ford, \$156,768.00.*

11. RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED SURPLUS EQUIPMENT TO WINSTONNET AND TO CITY EMPLOYEES. *[Recommended by Finance Committee.]*
12. RESOLUTION EXPRESSING APPROVAL FOR THE PROPOSED INCORPORATION OF MIDWAY IN DAVIDSON COUNTY, NORTH CAROLINA. *[Recommended by Community Development/Housing/General Government Committee.]*
13. RESOLUTION APPROVING RIGHT-OF-WAY AGREEMENT WITH DUKE ENERGY CORPORATION FOR THE PURPOSE OF PROVIDING RIGHT-OF-WAY FOR THE CONSTRUCTION OF ELECTRICAL FACILITIES TO THE NEW DEEP RIVER WASTEWATER PUMP STATION. *[Reviewed by Public Works Committee.]*
14. APPROVAL OF SUMMARY OF MINUTES – *March 28, 2005.*
2. RESOLUTION APPROVING LOAN TO GOLER COMMUNITY DEVELOPMENT CORPORATION FOR SITE ACQUISITION AND COMPLETION OF URBAN RENEWAL PROJECT IN CONNECTION WITH THE GOLER/PATTERSON REDEVELOPMENT PLAN. *[Recommended by Finance Committee.]*

Council Member Clark asked for the owners of the property.

Mr. Derwick Paige, Assistant City Manager, responded that there are three tracts of land. One is owned by the Goler CDC who acquired it from the City; the second is owned by R. J. Reynolds, and Goler has a contract to purchase the third tract from the Green Estate Heirs.

Council Member Clark: Motion for adoption.

Council Member Johnson: Second. Unanimous.

8. RESOLUTION AUTHORIZING THE NEGOTIATION OF AN AMENDMENT TO AN INSTALLMENT PURCHASE CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO, AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO – *Initiation of Process for Issuance of 2005 Certificates of Participation for Various City Projects.* *[Recommended by Finance Committee.]*

Council Member Clark commented that he wanted to make sure that the people who lease Bowman Gray Stadium for racing were asked for their input with regard to the planned improvements at that facility.

Mr. Stuart indicated yes.

Council Member Clark expressed a concern about earmarking funds for the purchase/renovation of the old Union Station Building with the thought that a light rail/transit center would be located here in the future. He questioned whether the City was getting ahead of itself with regard to this future project.

Council Member Robinson stated that he also had a concern regarding the multi-modal transit center as there has been no public debate on the need or functionality of light rail for the City of Winston-Salem. He remarked that the entire list of projects appears to him to be overstressing the City's resources, which would be better put to use in raising salaries of firefighters and police officers. He suggested that any projects which are legitimate public purposes should be listed on a ballot for the citizens to vote upon.

Council Member Johnson asked staff to comment on the purpose of the multi-modal transportation center, and the funding source.

Mr. Greg Turner, Assistant City Manager/Public Works, explained that the center would provide all forms of public transportation—rail, bus, park and ride, and vanpools. This location already has rail tracks available. He advised that this proposed center is not intended to replace the existing Transit Center downtown. Mr. Turner explained that there is currently a federal earmark of funds from which the City can draw down to pursue acquisition of the property, environmental work, and upfit. There would also be some State and local matches to that funding. In further

response to Council Member Johnson, Mr. Turner commented that the short-term use of the property would be non-rail related, but would accommodate Transit Authority buses, regional buses, park and ride, carpooling and vanpooling. In addition, there would be support for Winston-Salem State University, as well as a future Amtrak connector by commuter rail.

Council Member Besse remarked that this was an appropriate time to begin taking steps to provide light rail to the citizens, especially when Federal and State dollars are available. A long lead time for planning is advantageous and is no different than what is required for major roadway projects such as the Northern Beltway.

Council Member Burke stated that traffic can be very congested around Winston-Salem State and she was in agreement that the location of the proposed multi-modal center would be very complimentary to the needs of the University. She added that she was in favor of improvements to Bowman Gray Stadium since it is used in much the same manner by Winston-Salem State as the Coliseum is used by Wake Forest University and WSSU will share in the cost of those improvements.

Council Member Johnson: Motion for adoption.

Council Member Burke: Second. Those voting in favor of the motion were Council Members Clark, Besse, Johnson, Burke, Malloy, and Merschel. Opposed: Council Member Robinson. The motion carried on a vote of six in favor and one opposed.

At this time, Mayor Joines recognized Mr. Norman Wilkes, Interim Mayor of Midway, who was present for action on the Consent Agenda item expressing approval for the proposed incorporation of Midway in Davidson County.

GENERAL AGENDA

2. PUBLIC HEARING AND RESOLUTION CONSIDERING AND ADOPTING AN APPROPRIATE AND VERIFIABLE PERCENTAGE GOAL FOR PARTICIPATION BY MINORITY AND WOMEN OWNED BUSINESSES FOR THE M.C. BENTON CONVENTION CENTER MASONRY REPAIRS CONTRACT. *[Reviewed by Community Development/Housing/General Government Committee.]*

No one heard.

Council Member Johnson: Motion for adoption.

Council Member Malloy: Second.

Council Member Robinson expressed his opposition to M/WBE goals as he considers them unconstitutional.

Those voting in favor of the motion were Council Members Clark, Besse, Johnson, Burke, Malloy, and Merschel. Opposed: Council Member Robinson. The motion carried on a vote of six in favor and one opposed.

3. PUBLIC HEARING AND RESOLUTION AUTHORIZING THE SALE OF CERTAIN PARCELS WITHIN THE HOLLY AVENUE REVITALIZATION AREA IN ACCORDANCE WITH N.C.G.S. 160A-457(3)(4) – *Lots 031, 032, 105, and 106 of Block 095. [Recommended by Finance Committee.]*

No one heard.

Council Member Merschel: Motion for adoption.

Council Member Johnson: Second. Unanimous.

4. CONSIDERATION OF ITEMS RELATING TO THE NORTHEAST WINSTON #2 REDEVELOPMENT AREA: *[Recommended by Finance Committee.]*

- a. PUBLIC HEARING AND RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED PROPERTY SUBJECT TO THE PROVISIONS OF N.C.G.S. 160A-457(3)(4) – *945 E. 21st Street and Adjoining Lots known as Lot 012B of Block 1230 and Lot 002 of Block 6473.*

No one heard.

Council Member Burke: Motion for adoption.

Council Member Merschel: Second. Unanimous.

- b. PUBLIC HEARING AND RESOLUTION AUTHORIZING THE SALE OF CERTAIN SINGLE FAMILY LOTS WITHIN NORTHEAST WINSTON #2 REDEVELOPMENT AREA TO A REDEVELOPER AT A PRIVATE SALE IN ACCORDANCE WITH N.C.G.S. 160A-457(3)(4) – *26 Lots within boundaries of Cleveland Avenue, Highway 52, East 22nd Street, and New Hope Lane.*

No one heard.

Council Member Burke requested that as this project develops over the next few years that City staff monitor the area carefully for code violations. She stated that a lot of public and private investment has been made in this area.

Council Member Burke: Motion for adoption.

Council Member Clark: Second. Unanimous.

- c. RESOLUTION DESIGNATING THE HOUSING AUTHORITY OF WINSTON-SALEM, HABITAT FOR HUMANITY OF FORSYTH COUNTY, INC. AND HOUSING PARTNERSHIP OF WINSTON-SALEM/FORSYTH COUNTY, INC. AS PREFERRED DEVELOPERS FOR THE NORTHEAST WINSTON #2 REDEVELOPMENT AREA AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE APPLICABLE DEVELOPMENT AGREEMENTS.

Council Member Burke: Motion for adoption.

Council Member Malloy: Second.

Council Member Robinson asked how someone would get on the preferred developer list.

Dr. Monica Lett, Housing/Neighborhood Development Director, explained that as projects arise and are brought before City Council, staff uses a certified contractors list for both rehab and new construction, which contain specific sets of guidelines. She stated that she would be

glad to discuss this with anyone who is interested in being added to either list.

The motion for adoption was unanimously carried.

5. PUBLIC HEARING AND RESOLUTION DEFINING AND ESTABLISHING A MUNICIPAL SERVICE DISTRICT PURSUANT TO CHAPTER 160A, ARTICLE 23, MUNICIPAL SERVICE DISTRICTS OF THE NORTH CAROLINA GENERAL STATUTES, FOR PROPERTY OWNED BY THE CITY OF WINSTON-SALEM IN THE ALLIANCE SCIENCE AND TECHNOLOGY BUSINESS PARK.

No one heard.

Council Member Johnson: Motion for adoption.

Council Member Merschel: Second. Unanimous.

6. CONSIDERATION OF ITEMS RELATING TO THE HOUSING AUTHORITY OF WINSTON-SALEM: *[Finance Committee forwarded this item to Council with three in favor, none opposed, one abstaining.]*
 - a. RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE HOUSING AUTHORITY OF WINSTON-SALEM REGARDING AN INDEPENDENT REVIEW OF PROPERTY TRANSACTIONS.

Mayor Joines explained that in addition to a review by the Greensboro office of HUD, there is also going to be a review by the U. S. Inspector General's office. He suggested that the Council approve the agreement as presented on the agenda, but nothing be done in terms of an independent review until the Inspector General's office provides its findings.

Council Member Johnson: Motion for adoption.

Council Member Merschel: Second.

Council Member Burke remarked that she has been advised that if the independent review is conducted, the Housing Authority would reimburse the City for any expenses incurred. She stated that she would not vote for any tax dollars to be spent for the review.

Mr. Stuart clarified that after the other reviews are completed, if there are any remaining questions, those issues would be reviewed. Only the actual cost of the additional review would be paid up to an amount of \$15,000, which will be reimbursed to the City by the Housing Authority.

The motion for adoption was unanimously carried.

- b. ORDINANCE AMENDING THE ANNUAL APPROPRIATION AND TAX LEVY ORDINANCE FOR THE CITY OF WINSTON-SALEM FOR FISCAL YEAR 2004-2005.

Council Member Clark: Motion for adoption.

Council Member Merschel: Second. Unanimous.

7. RESOLUTION AWARDED CONTRACT TO IKON, INC. FOR THE PURCHASE OF PRINT SHOP, MAIL COURIER AND MULTI-FUNCTION PRINTER SERVICES. *[Finance Committee forwarded this item to Council with three in favor, none opposed, one abstaining.]*

Council Member Merschel: Motion for adoption.

Council Member Clark: Second. Unanimous.

8. RESOLUTION RESCINDING REVERSION PROVISION FOR THE SALE OF CERTAIN CITY-OWNED PROPERTY TO LIBERTY COMMUNITY DEVELOPMENT CORPORATION.

Council Member Burke made a motion for the withdrawal of this item. She stated that Mr. Derwick Paige, Assistant City Manager, has taken care of the matter.

Council Member Clark: Second. Unanimous.

The item was withdrawn.

ADJOURNMENT: 8:23 p.m.