

D-26905

Summary of Minutes

August 2, 2005

A Special Meeting of the Winston-Salem City Council was held on Tuesday, August 2, 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	Robert C. Clark
	Dan Besse	Joycelyn V. Johnson
	Vivian H. Burke	Nelson L. Malloy, Jr.
	Wanda Merschel	

Members Absent: Council Member Frederick N. Terry

Secretaries: Paige L. Deal, Deputy City Secretary and Melanie Johnson, Recording Secretary

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

Invocation: Pastor James M. Brown of Vernon Forest Baptist Church

Pledge of Allegiance

1. CONSIDERATION OF ITEMS RELATING TO A PETITION FOR ANNEXATION OF PROPERTY LOCATED OFF OLD SALISBURY ROAD – *Petition of Prime Properties of Winston-Salem, LLC. [Recommended by Public Works Committee.]*

a. PUBLIC HEARING AND ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF WINSTON-SALEM BY ANNEXING THERETO CERTAIN CONTIGUOUS TERRITORY.

No one heard.

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

b. RESOLUTION AMENDING OFFICIAL CITY MAP DESIGNATING CORPORATE LIMITS AND SOUTH WARD BOUNDARIES.

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

- c. PUBLIC HEARING ON ZONING PETITION OF THE CITY OF WINSTON-SALEM FOR PROPERTY OWNED BY MULTIPLE OWNERS FROM COUNTY RS-9 TO CITY RS-9: Property located on the southwest corner of Old Salisbury Road and Midpines Drive – Containing approximately 45.99 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2784. *[Planning Board recommends approval of petition.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

2. CONSIDERATION OF ITEMS RELATING TO A PETITION FOR ANNEXATION OF PROPERTY LOCATED OFF PETERS CREEK PARKWAY – *Petition of Builders Land, Inc. and Shugart Enterprises, LLC. [Recommended by Public Works Committee.]*

- a. PUBLIC HEARING AND ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF WINSTON-SALEM BY ANNEXING THERETO CERTAIN SATELLITE TERRITORY.

No one heard.

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

- b. RESOLUTION AMENDING OFFICIAL CITY MAP DESIGNATING CORPORATE LIMITS AND SOUTHEAST WARD BOUNDARIES – *Tract I – Parkside East.*

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

- c. RESOLUTION AMENDING OFFICIAL CITY MAP DESIGNATING CORPORATE LIMITS AND SOUTH WARD BOUNDARIES – *Tract II – Parkside West.*

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

- d. PUBLIC HEARING ON ZONING PETITION OF THE CITY OF WINSTON-SALEM FOR PROPERTY OWNED BY MULTIPLE OWNERS FROM COUNTY RM-8-S TO CITY RM-8-S: Property located on the east and west sides of Peters Creek Parkway south of Brannigan Village Drive – Containing approximately 111.17 acres located in the SOUTH WARD (Council Member Robinson) AND THE SOUTHEAST WARD (Council Member Terry) – Zoning Docket W-2783. *[Planning Board recommends approval of petition.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

Council Member Robinson: Motion for adoption.

Council Member Clark: Second. Unanimous.

- 3. PUBLIC HEARING AND ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER B, ARTICLE III OTHER DEVELOPMENT STANDARDS OF THE UNIFIED DEVELOPMENT ORDINANCES TO ALLOW ON-STREET PARKING ALONG PUBLIC STREETS IN RESIDENTIAL, MULTI-FAMILY DEVELOPMENTS TO SATISFY SOME OF THE REQUIRED PARKING – UDO-134. *[Planning Board recommends approval.]*

No one heard.

Council Member Merschel: Motion for adoption.

Council Member Malloy: Second.

Mr. Paul Norby, City/County Planning Board Director, explained that this text amendment would allow up to 30% of the total parking needs for multi-family developments to be local, on-

street parking, but parking would not be allowed along major thoroughfares. In response to Council Member Burke, Mr. Norby noted an example of this type of parking at apartments along Queen Street, near Wake Forest Baptist Medical Center.

In response to Council Member Merschel, Mr. Norby stated that the amendment would require attached sidewalks for on-street parking.

Council Member Clark inquired about the proximity of on-street parking spaces to their corresponding developments.

Mr. Norby explained that only spaces adjacent to a development would be considered for on-street parking, and pointed out that developers would only be allowed to use on-street parking for a small amount of required parking.

In response to Council Member Besse's concern, Mr. Norby stated that on-street parking would be restricted to streets located entirely within a development.

The motion to approve the item was unanimously carried.

4. PUBLIC HEARING AND ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCES TO AMEND THE DEFINITION OF RESIDENTIAL BUILDING, URBAN – UDO-140. *[Planning Board recommends approval.]*

No one heard.

Council Member Merschel: Motion for adoption.

Council Member Clark: Second. Unanimous.

5. PUBLIC HEARING AND ORDINANCE AMENDING THE PERMITTED USE TABLE OF THE UNIFIED DEVELOPMENT ORDINANCES TO ALLOW RESIDENTIAL BUILDING, DUPLEX AND RESIDENTIAL BUILDING, TWIN HOME IN THE PB ZONING DISTRICT – UDO-139. *[Planning Board recommends approval.]*

No one heard.

In response to Council Member Johnson's concern, Mr. Norby stated that PB and PBS zoning currently allow single family homes and that this text amendment only deals with duplexes.

Council Member Merschel: Motion for adoption.

Council Member Clark: Second. Unanimous.

6. PUBLIC HEARING ON ZONING PETITION OF BW HOMES-I, LLC FROM LO TO PB-S (Residential Building, Multi-Family; Residential Building, Townhouse; Residential Building, Twin Home; and Residential Building, Duplex): Property located on the south side of Holly Avenue between Spring Street and Poplar Street – Containing approximately .46 acre located in the NORTHWEST WARD (Council Member Merschel) – Zoning Docket W-2778. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

Council Member Merschel made a motion for approval of the zoning petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Malloy: Second. Unanimous.

7. PUBLIC HEARING ON ZONING PETITION OF LA CRUZADA, LLC FROM GO-S (Professional Office; Medical and Surgical Offices; and Offices, Miscellaneous) TO SITE PLAN AMENDMENT: Property located on the northwest side of Westbrook Plaza Drive east of Hannaford Road – Containing approximately 2.25 acres located in the SOUTHWEST WARD (Council Member Besse) – Zoning Docket W-2444a. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

Council Member Besse made a motion for approval of the petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit, with the following addition to the condition of “Prior to Issuance of Occupancy Permits”:

- Developer shall install a Stormwater Management Device to retain a 10-year design storm to pre-development runoff rates in accordance with the City of Winston-Salem Stormwater Ordinance.

Council Member Johnson: Second. Unanimous.

8. PUBLIC HEARING ON ZONING PETITION OF GRANITE/SOMERSET LLC FROM NSB-S TWO PHASE TO NSB-S (Shopping Center; ABC Store; Building Material Supply; Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Nursery; Lawn and Garden Supply Store; Restaurant Without Drive Through; Restaurant with Drive Through; Specialty or Miscellaneous Retail; Banking and Financial Services; Car Wash; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Personal - TWO PHASE): Property located on the southwest corner of Stratford Road and Somerset Drive – Containing approximately 11.27 acres located in the SOUTHWEST WARD (Council Member Besse) – Zoning Docket W-2747a. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

Council Member Besse made a motion for approval of the zoning petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Clark: Second. Unanimous.

9. PUBLIC HEARING ON ZONING PETITION OF MARSHALL E. AND DEBORAH M. ROWELL FROM LI TO GB: Property located on the north side of Hanes Mall Boulevard west of I-40 – Containing approximately 1.13 acres located in the SOUTHWEST WARD (Council Member Besse) – Zoning Docket W-2780. *[Planning Board recommends approval of petition.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

Council Member Besse: Motion for adoption.

Council Member Merschel: Second. Unanimous.

10. PUBLIC HEARING ON ZONING PETITION OF MUSLIM ASSOCIATION OF THE TRIAD FROM RS-9 TO IP-S (Cemetery, Unlicensed): Property located on the north side of Salem Crest Lane south of I-40 – Containing approximately 2.2 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2781. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

Council Member Robinson made a motion for approval of the zoning petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Clark: Second.

Mr. Norby explained to Council Member Johnson that a licensed cemetery meets the requirements of a perpetual care cemetery as defined under State law, and an unlicensed cemetery is one that is owned and operated by a municipal entity or a private family, etc., that does not meet the licensing requirements of a perpetual care cemetery.

Council Member Johnson expressed a concern due to past problems with maintenance of unlicensed cemeteries.

Council Member Burke requested the petitioner come forward and answer questions regarding maintenance of the cemetery.

Mr. Habib Bendaas, 1724 Spring Path Trail, Clemmons, stated that even though their mosque is located in Clemmons, the congregation is willing to maintain the cemetery. He noted that if infrastructure is installed in the future, the church could build additional buildings closer to the cemetery.

In response to Council Member Burke, Mr. Ron Seeber, City Attorney, stated that he could meet with the petitioner to work out a contract ensuring future maintenance of the cemetery, and the item could be brought back to the Council's September zoning meeting.

Council Member Clark requested information on licensing for perpetual care cemeteries and organizations that the City could require to maintain licensing. He expressed a concern that the licensing requirement should be a fair process.

Mr. Bendaas noted that his church is willing to work with the City, but requested that his church not be required to meet different criteria than other organizations.

Council Member Johnson noted that she would like to discuss the issue in Public Works Committee.

Council Member Robinson withdrew his original motion and made a substitute motion to continue the item to the September zoning meeting.

Council Member Clark: Second.

Mr. Gregory M. Turner, Assistant City Manager/Public Works, responded to Council

Member Burke, stating that any church that wishes to build a cemetery would be required to obtain approval from the City Council.

Mr. Charlie Norton, City/County Inspections Director, noted that the Unified Development Ordinance would allow religious institutions to build an unlicensed cemetery as an accessory use to their property, which would only require issuance of a zoning permit.

Mayor Joines called for a vote on the motion to continue the item to the September meeting.

The motion was unanimously carried.

11. PUBLIC HEARING ON ZONING PETITION OF J. FRANKLIN AND M. DIANNE MYERS FROM RS-9 AND HB TO HB: Property located on the southeast corner of Oak Summit Road and Patterson Avenue – Containing approximately 2.26 acres located in the NORTHEAST WARD (Council Member Burke) – Zoning Docket W-2782. *[Planning Board recommends approval of petition.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

Council Member Burke: Motion for adoption.

Council Member Merschel: Second. Unanimous.

12. PUBLIC HEARING ON ZONING PETITION OF EAGLE DEVELOPING COMPANY FROM RS-12 TO RS-9-S (Residential Building, Single Family): Property located on the east side of Mayfield Road north of Anita Drive – Containing approximately .44 acre located in the SOUTHWEST WARD (Council Member Besse) – Zoning Docket W-2768. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

At the request of Council Member Besse, Mr. Robert Wooten, 701 Longbow Trail, explained that, in response to neighborhood concerns, the plans were resubmitted without a detached garage and it was agreed that a Type II buffer would be maintained along the eastern border, making use of the adjacent property's vegetation.

Council Member Besse made a motion for approval of the zoning petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit, as amended.

Council Member Clark: Second. Unanimous.

13. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF HENRY C. WHITE AND ELTON WHITE FROM RS-9 TO RM-18-S (Residential Building, Multi-Family): Property located on the west side of Griffith Road and south side of Burke Mill Road – Containing approximately 12.32 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2771. *[Planning Board recommends approval of petition and site plan with staff recommendations. This hearing was continued from the July 5 Council meeting.]*

Mr. David Niblock, 110 Oakwood Drive, spoke on behalf of the petitioners. He stated that two neighborhood meetings had been conducted and the main concern was completion of the Burke Mill Realignment project. Mr. Niblock noted that a traffic impact study was performed and concluded that this project would have a minimal impact on traffic flow. He stated that the petitioners have offered in writing to build a six-foot privacy fence around Mr. Roger Tise's home, as well as pressure wash his siding after completion of the project.

Mr. Roger Tise, 2110 Griffith Road, stated that although he opposes the petitioner's request, he has a larger concern that the City will continue to approve high-density development along the southern end of Griffith Road. He pointed out that traffic congestion is currently a severe problem in his neighborhood and the Burke Mill Road Realignment project would not alleviate the problem.

Mr. Tise requested the Council not approve any further rezoning requests for multi-family, high density, rent-subsidized or industrial along Griffith Road.

In response to Council Member Johnson's question, Mr. Niblock noted that traffic seemed to be Mr. Tise's biggest concern, and according to studies, the proposed development would have minimal impact on traffic.

Mr. Tise stated that signalization of the intersection by his home would make it difficult to get out of his driveway.

Mayor Joines declared the public hearing closed and recognized Mr. Norby for the staff report.

Mr. Norby reported that the rezoning request is for a change from RS-9 to RM-18-S, allowing 14 buildings with 12 units each, and 320 parking spaces with a Type II buffer. He indicated that staff recommends approval of the request. In response to Council Member Merschel, he stated that the development would consist of 13.6 units per acre, requiring zoning above the RM-12-S. He noted, however, that the site plan locks the development in at 13.6 units.

Council Member Merschel inquired as to the highest density for residential zoning.

Mr. Norby stated that RM-U applies to unlimited density.

Council Member Clark asked about the status of the Burke Mill Road Realignment project.

Mr. Turner explained that the purpose of the project is to realign Burke Mill Road, creating a safer intersection with Stratford Road. He stated it would be constructed for potentially three lanes, but marked for two lanes, and would include signalization of intersections at Stratford Road, Burke

Mill Road and Atwood Road. He noted that construction is scheduled to begin late in 2006, with completion in 2007.

Council Member Clark inquired about the current status of and future plans for Griffith Road.

Mr. Turner stated that dedicated left-turn lanes would be installed on all approaches to the intersection with Burke Mill Road, at which a traffic signal will be installed.

Council Member Robinson asked Mr. Turner for clarification of Mr. Tise's concerns about getting out of his driveway.

Mr. Turner noted that there would be times it would be difficult for Mr. Tise to exit his driveway. He stated that it would be likely that some portion of a dedicated left-turn lane would be in front of Mr. Tise's property.

In response to Council Member Besse's question, Mr. Turner stated that left-turn lanes are needed for the signals to operate effectively. He explained that acquisition of right-of-way and completion of the construction design depended upon final approval from the railroad, which was only recently received.

Council Member Besse requested staff investigate moving the construction schedule up to a closer date. He also requested total daily traffic counts along Griffith Road.

In response to Mayor Joines, Mr. Turner noted that Griffith Road could handle the proposed traffic increase.

Council Member Robinson requested staff look into enforcement of traffic issues in and around the intersection.

Mr. Norby explained that future commercial zoning along the southern end of Griffith Road would be unlikely, and generally lower density development is planned for that area.

In response to Council Member Robinson, Dr. Monica Lett, Director of Housing and Neighborhood Development, stated that no additional subsidized housing is planned for Griffith Road.

Council Member Johnson pointed out that anyone with a Section 8 housing voucher could be accepted at any property.

Council Member Merschel expressed a concern over high density development along Griffith Road, and stated she would be voting against the item.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE
AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

Council Member Robinson made a motion for approval of the zoning petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Clark: Second.

The motion carried on a vote of five in favor and two opposed. Voting in favor of the motion were Council Members Robinson, Clark, Besse, Burke and Malloy, with Council Members Johnson and Merschel voting in opposition. Lacking a two-thirds vote of the Council, the item requires a second reading, to be scheduled for the August 15, 2005 City Council meeting.

14. PUBLIC HEARING ON PROPOSAL TO AMEND THE UNIFIED DEVELOPMENT ORDINANCES REGARDING TREE PRESERVATION STANDARDS – UDO-122. *[Planning Board recommends denial. This item was forwarded to Council for public hearing by the Community Development/Housing/General Government Committee.]*

Ms. Melynda Dunnigan, 1875 Mallard Lakes Drive, spoke on behalf of the Winston-Salem Neighborhood Alliance, expressing their support for tree preservation. She stated that there is currently not enough community support for the ordinance and requested that Council remand the item to the Planning Board.

Mr. Jeffrey Wilson, 925 Marguerite Drive, requested that the item be remanded to the Planning Board. He stated that further community input is needed and additional attention should be given to residential construction issues, as well as costs to implement the ordinance.

Dr. Robert Vorsteg, 3620 Marlowe Avenue, noted that residential development seems to ignore natural features of building sites, and pursue clear cutting of sites. He stated that was not the only cost effective method and development can be conservation-based.

Council Member Malloy noted that further consideration should be given to the issues and made a motion to remand the ordinance to the Planning Board.

The motion was duly seconded by Council Member Merschel, and she requested that staff investigate additional resources for addressing the problem of clear-cutting land.

Mr. Norby indicated that it would take time to adequately address all of the issues and asked for the Council's understanding in the possibility of a lengthy timeline for completion.

Council Member Merschel expressed a concern that in the interim, entities may proactively pursue removal of trees prior to the passage of an ordinance.

In response to Council Member Johnson's question, Mr. Norby stated that the Council is under no obligation to address the ordinance within a certain timeframe.

Council Member Robinson expressed a concern that undue regulations may drive up the cost of housing.

The motion to remand the item to the Planning Board was unanimously carried.

15. CONSIDERATION OF MAYOR JOINES' RECOMMENDATIONS FOR APPOINTMENTS/REAPPOINTMENTS TO THE CITIZEN POLICE REVIEW BOARD – *Terms Expiring April, 2008:*

Mary Anne Forehand – *Reappointment*
Francis Scales Manns, Jr. – *Reappointment*
L. Stephen Robinson – *Reappointment*
Gene Nail – *Reappointment*
Ralph H. Holthouser – *Appointment*
Roy A. Fleming – *Appointment*
Dewey Haley – *Appointment*

Council Member Johnson: Motion for adoption.

Council Member Burke: Second.

Council Member Robinson requested that race and gender information be removed from applicant information.

The motion to approve the appointments was unanimously carried.

16. APPROVAL OF SUMMARY OF MINUTES – *June 20, 2005.*

Council Member Burke: Motion for adoption.

Council Member Merschel: Second. Unanimous.

Mayor Joines recognized that August 4, 2005 would be Council Member Burke's birthday.

Council Members sang "Happy Birthday" to Council Member Burke.

Mayor Joines recognized Council Member Malloy at this time for a motion.

Council Member Malloy made a motion for the City Council to enter into Closed Session to discuss the location or expansion of an industry and/or business pursuant to N.C.G.S. 143-

318.11(a)(4) and to discuss the City's negotiating position in the acquisition of real property pursuant to N.C.G.S. 143-318.11(a)(5).

Council Member Merschel: Second.

Council Member Besse noted that tonight is National Night Out, and thanked the Police Department and citizens for their participation.

The motion to enter into Closed Session was unanimously carried.

The Council entered into Closed Session at 9:13 p.m.

At 10:00 p.m., Council Member Merschel made a motion to dissolve the Closed Session and resume Regular Session.

Council Member Burke: Second. Unanimous.

ADJOURNMENT: 10:00 p.m.