

D-26897

Summary of Minutes

July 5, 2005

A Regular Meeting of the Winston-Salem City Council was held on Tuesday, July 5, 2005 at 7:30 p.m. in the Council Chamber at City Hall, Mayor Allen Joines presiding and the following members present:

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

Member Absent: Council Member Vernon Robinson

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

Sergeant at Arms: Lieutenant Connie Southern and Lieutenant C. W. (Bill) Cobb

Invocation: Pastor Bud Owen of Temple Baptist Church

Pledge of Allegiance

1. PUBLIC HEARING AND RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED PROPERTY LOCATED AT 524-546 NORTH TRADE STREET SUBJECT TO PROVISIONS OF N.C.G.S. 160A-457 (PRIVATE SALE FOLLOWING A PUBLIC HEARING).

No one heard.

Mayor Joines pointed out a memo which contains a revised description of the property.

Council Member Johnson: Motion for adoption with the revised description.

Council Member Merschel: Second. Unanimous.

2. PUBLIC HEARING ON ZONING PETITION OF E. V. FERRELL, JR. FROM RM-18 TO RS-9: Property located on the north side of Thomasville Road east of Fiddlers Court and west of Hunterwood Lane – Containing approximately 16.22 acres located in the SOUTHEAST WARD (Council Member Terry) – Zoning Docket W-2774. *[Planning Board recommends approval of petition.]*

No one heard.

Mr. Paul Norby, City/County Planning Director, presented the recommendation of the Planning Board which was for approval of the petition.

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

Council Member Terry made a motion for approval of the petition and adoption of the zoning ordinance.

Council Member Malloy: Second. Unanimous.

3. PUBLIC HEARING ON ZONING PETITION OF SWAMP FOX INVESTMENTS, LLC FROM LI TO HB: Property located on the southeast corner of Cherry Street and Arlis Court – Containing approximately .11 acre located in the EAST WARD (Council Member Johnson) – Zoning Docket W-2775. *[Planning Board recommends approval of petition.]*

No one heard.

In response to Council Member Johnson, Mr. Norby stated that this area is largely zoned for industrial uses. However, the northern edge of downtown is growing and becoming more commercial and residential. He stated that the Planning Board felt a movement toward more commercial use is a good trend for this area until a more comprehensive development is done.

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

Council Member Johnson made a motion for approval of the petition and adoption of the zoning ordinance.

Council Member Malloy: Second. Unanimous.

4. PUBLIC HEARING ON ZONING PETITION OF RICK VALENSKI BYRD FROM RS-7 TO RS-Q: Property located on the west side of Hattie Avenue north of Bramblebrook Lane – Containing approximately .44 acre located in the EAST WARD (Council Member Johnson) – Zoning Docket W-2758. *[Planning Board recommends denial of petition.]*

The City Secretary advised that there was a sufficient protest petition filed in this case.

Appearing in support of the petition was Mr. Rick V. Byrd, 1704 Hattie Avenue. With his education and experience, Mr. Byrd stated that he planned to rehab this property into two units with off-street parking. He assured the Council that he took pride in his property and kept each in a clean, aesthetically pleasing manner.

Appearing in opposition to the petition was Ms. Delores Graham, 1711 Hattie Avenue. She stated that she felt it would create a crowded condition to put more than one family into a house designed for one. She expressed concerned regarding traffic, crime, and the loss of the peacefulness of the neighborhood.

Mr. Al Jones, 1700 Hattie Avenue, also spoke in opposition. He stated that while it was true that Mr. Byrd made improvements to the property, he still did not think rezoning this property to allow multiple families to live in a house designed for a single-family occupant was a good idea. He commented that he believed that the property would become a place for transients, which would be disruptive to the neighborhood.

During the rebuttal time, Mr. Byrd assured the Council that he had no intentions of letting the property deteriorate. He was not a slum landlord. He stated that his plans for the house was for two families only, which should have no effect whatsoever upon the neighborhood.

Ms. Juanita Gordon, 1801 Hattie Circle, remarked that Mr. Byrd did not communicate with the neighbors regarding his intentions for the property. She further stated that she did not want to deal with the constant turnover that multi-family units usually experience.

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

Mr. Norby presented the recommendation of the Planning Board which was for denial of the petition.

Council Member Johnson stated that it was her opinion that changing the zoning to RS-Q would set a precedent for this community. She made a motion for denial of the petition.

Council Member Malloy: Second. Unanimous.

5. 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.]*

Mayor Joines advised that Council Member Robinson was out of town this evening and had requested that this item be continued to August 2.

Council Member Burke: Motion to continue the hearing to August 2.

Council Member Malloy: Second. Unanimous.

6. PUBLIC HEARING ON ZONING PETITION OF GLENN E. SWAIM, JR., LYNN SWAIM, ZACHARY E. SWAIM, DAVID L. SWAIM FAMILY TRUST, JAMES V. LINVILLE, AND OLA S. LINVILLE FOR PROPERTY CONTAINED IN TWO TRACTS: TRACT ONE - RM-5-S (Residential Building, Single-Family; Residential Building, Duplex; and Residential Building, Townhouse – Planned Residential Development) AND TRACT TWO - NSB-S (Shopping Center) TO RM-8-S (Residential Building, Single-Family; Residential Building, Duplex; and Residential Building, Townhouse – Planned Residential Development) AND NSB-S (Shopping Center): Property located off the northwest corner of Kernersville Road and Linville Road – Containing approximately 176.78 acres in Tract One and 4.76 acres in Tract Two; both tracts located in the EAST WARD

(Council Member Johnson) – Zoning Docket W-2779. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

Appearing in favor of the petition was Reverend Rob Decker, 196 Townsend Drive. He stated that he was pastor of Triad Baptist Church and that the developer has worked extensively with the neighborhood to address their concerns, especially relating to a proposed connection of Townsend Drive to the project. He stated that since that connection has been omitted, he had no opposition to the petition.

Mr. Joe Jenkins, 308 Top Water Lane, Greensboro, introduced himself as Division President of Centex Homes in the Triad. He described the residential units in detail, and explained the role the homeowners association would have in the maintenance of exteriors of the homes and landscaping. Mr. Jenkins pointed out changes in land use and the shifting of some buildings. He stated that one lingering concern has been expressed by neighbors to the west. That concern is the connection from the project to Community Road. Mr. Jenkins stated that this connection is out of the developers' hands. The road connection is shown as a 20-foot wide tar and gravel section which terminates on Kernersville Road to the south with an unlimited access intersection with a dead end to the north. For multiple reasons, the adjacent homeowners are opposed to the connection. This connection was recommended by the Planning staff and accepted by the Planning Board.

Appearing in opposition to the petition was Mr. Lloyd Lennon, 235 Dumont Drive. He expressed the neighborhood's concern about the connection to Community Road. Mr. Lennon remarked that they had been told at an earlier meeting that there would be no need to access the development via Community Road since a connection would be made by way of Townsend Drive. Now, the developers are saying that the Townsend Drive connection has been eliminated and

Community Road is now the access. He presented a petition of neighborhood signatures opposing the Community Road connection.

Mr. Jenkins clarified that when the site plan was first submitted, there was no connection to Community Road. The Planning Board requested that the connection be made to Community Road. The developers complied by making it a private driveway.

Reverend Decker commented that this project has generated a lot of discussion regarding connectivity to existing roads. He stated that the connections kept getting pushed from one to another.

No one spoke during the rebuttal time for the opposition.

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

Mr. Norby presented the recommendation of the Planning Board which was for approval of the petition. He described the project which is proposed at a density of approximately 3.84 dwelling units per acre. The plan also includes 66.6 acres of open space. He stated that this was a large development with 680 homes and a 39,000 square-foot shopping village to have relatively few connections. The Planning Staff and Planning Board felt, therefore, that it was important to have some street connections. He pointed out that the previously approved plan included a connection to Community Road. There were some originally proposed connections to Dumont Drive and Emily Drive, but those connections were subsequently eliminated. When the petitioner came forward with an amended plan to change some of the single-family units to multi-family and vice versa, there was also a proposed connection to Townsend Drive with the deletion of the connection to Community Road. The Planning Staff and Planning Board realized that it would not be feasible to connect to Townsend Drive; therefore, the feeling was that the connection to Community Road was very

important as a secondary access. However, he stated that it is far more likely that vehicular traffic will access the development via the main entrance. After the public hearing during which three persons spoke in opposition to the Townsend Drive connection, the Planning Board recommended approval of the petition with a connection to Community Road, taking out the proposed connection to Townsend Drive, and eliminating the connection between the shopping center and the multi-family units. Finally, Mr. Norby advised that if the developer has received the agreement of the City Engineer that connections to American Drive and Vernon Circle were not feasible due to topography and geology, that would satisfy condition "j."

In response to Council Member Burke, Mr. Norby stated that it was unlikely that residents of the development would find Community Road a convenient short-cut to Kernersville Road. There may be some who live in that corner to use that as an access point, but staff considers such use to be minimal.

At the request of Council Member Johnson, Mr. Greg Turner, Assistant City Manager, explained that of the total site, approximately 28 percent of the Phase One development will be impervious area, and Phase Two would have approximately 55.5 percent impervious surface. He stated that the plan carries a number of stormwater measures, as outlined in conditions of the site plan.

Council Member Besse asked who would be responsible for the maintenance of the stormwater system within the development.

Mr. Turner replied that this would be a responsibility of the homeowners association.

Mr. Jenkins indicated agreement with Mr. Turner.

Council Member Johnson asked if there was anything the City could do to mitigate any problems which may be created by the connection of Community Road.

Mr. Turner concurred with Mr. Norby in his earlier statement that there is likely to be very little traffic to and from the new development via Community Road. However, if problems do develop, the City can offer relief through traffic calming measures. The developer would be responsible for traffic calming measures if cut-through traffic or diverted traffic becomes a concern.

Council Member Burke asked that staff monitor traffic on Community Road.

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 Johnson 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 stated stipulations regarding the protection of Townsend and Brookshire.

Council Member Malloy: Second.

Council Member Terry commented that he can remember a couple of rezoning petitions for property on Community Road which were turned down due to traffic concerns. He stated that he disagreed with staff in that he believes that this will turn into a cut-through from Kernersville Road and create a lot of problems for the existing neighborhood.

Mayor Joines called for the vote on the motion.

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

7. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF MICHAEL W. GILLEY, TRUSTEE FROM GO-S TO LO-S (Offices, Miscellaneous; and Professional Office): Property located on the northwest corner of Old Town Drive and Briarcliffe Road – Containing approximately 1.31 acre located in the NORTHWEST WARD (Council Member Merschel) – Zoning Docket W-2767. *[Planning Board recommends approval of petition and site plan with staff recommendations. This item was continued from the June 6 Council meeting.]*

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 stated that she initially had some questions regarding this petition, but after speaking to the petitioner and his representative, her concerns have been addressed. She made a motion for approval of the petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Clark: Second. Unanimous.

8. PUBLIC HEARING AND ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER C, ARTICLES III AND IV – SALEM LAKE WATERSHED PROTECTION AND WATERSHED PROTECTION, RESPECTIVELY, OF THE UNIFIED DEVELOPMENT ORDINANCES TO PROVIDE ADDITIONAL FLEXIBILITY FOR OPEN SPACE OWNERSHIP IN WATERSHED SITUATIONS – *Proposal of Jim Armentrout and City-County Planning Staff – UDO-135. [Planning Board recommends approval.]*

Mr. Norby explained this proposed text amendment and offered to respond to questions.

Council Member Merschel: Motion for adoption.

Council Member Johnson: Second.

Council Member Terry asked what information is provided or language included to ensure that homeowners will be made aware of these matters.

Mr. Norby responded that this proposed text amendment opens the responsibility of watershed issues to public or semi-public authorities. The ordinance provides that if the developer chooses to utilize the maximum average density alternative, which is one of the three methods of being able to develop land in the Salem Lake Watershed, a note restricting all lots from further subdivision and all common space and open space lots from residential developments shall be included on all deeds or on the preliminary or final plats. So, the check and balance on this would be if somebody comes in with a tract of land that has been subdivided and they subsequently come back in to Planning trying to subdivide that lot again, staff will see the deed and know that the property cannot be further subdivided, so that would be an administrative control.

Council Member Terry expressed a concern that if property exchanges hands several times, then there is an opportunity for one of the purchasers not to realize that this is a restriction on the property.

Mr. Norby noted that this information would typically be disclosed at the time of closure on the property.

Council Member Burke agreed with Council Member Terry that this may be legal, but she is aware of too many situations where citizens are taken completely unaware of certain provisions and then find themselves in a situation where they need to ask the City for assistance.

Council Member Johnson asked who is responsible if there is no homeowners association.

Mr. Norby replied that if the land is subdivided and there is no common open space, each lot would have to meet the watershed requirements. This amendment provides more options than just creating a homeowners association.

Mayor Joines stated that this was a public hearing and asked if anyone wished to be heard. Hearing no one, he declared the public hearing closed. He noted that Mr. Jim Armentrout was present for questions.

Council Member Terry made a motion to remand the text amendment to Planning for further review of the legal ramifications if property buyers are not adequately advised of their responsibilities of being in a watershed.

Council Member Merschel: Second.

Council Member Merschel asked if it would not be better to refer this text amendment to the Public Works and Community Development/Housing/General Government Committees and she offered this as a substitute motion.

Council Member Terry stated that he would withdraw his motion, and he seconded Council Member Merschel's substitute motion.

The substitute motion was unanimously carried.

9. PUBLIC HEARING AND ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER C, ARTICLE VII-EROSION CONTROL, OF THE UNIFIED DEVELOPMENT ORDINANCES SO THAT THE ORDINANCE MEETS STATE-MANDATED REQUIREMENTS – *Proposal of the City-County Inspections Division – UDO-137. [Planning Board recommends approval.]*

Mr. Charles Norton, Director of Inspections, presented the report on this proposed text amendment. He stated that this makes the City's ordinance in line with State requirements.

Mayor Joines asked Mr. Norton if adoption of this text amendment and the additional inspectors hired by the City would remove the probation status of the City.

Mr. Norton responded that those were the two major items. There are other minor administrative issues which have been addressed or are in the process of being addressed.

In response to Council Member Merschel, Mr. Norton stated that there is a provision in the text amendment to require persons who have allowed sedimentation into a lake or stream or onto someone else's property to restore the property or waterway to its original condition.

In response to Council Member Burke, Council Member Besse noted that the ordinance provides for the complaint and hearing process to be conducted through Inspections to the Zoning Board of Adjustment before going to the North Carolina Sedimentation Control Commission.

Mayor Joines called for the public hearing on this item. Hearing no one, he declared the public hearing closed.

Council Member Merschel: Motion for adoption.

Council Member Clark: Second. Unanimous.

10. RESOLUTION AUTHORIZING THE CITY OF WINSTON-SALEM TO ACCEPT FUNDS FROM THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON BEHALF OF THE PIEDMONT TRIAD RESEARCH PARK FOR INFRASTRUCTURE IMPROVEMENTS.

Council Member Burke: Motion for adoption.

Council Member Clark: Second.

Council Member Johnson requested permission to be excused from voting on this item.

Council Member Clark made a motion to excuse Council Member Johnson from voting on this item. The motion was duly seconded by Council Member Merschel and unanimously carried.

Mayor Joines called for the vote on the motion for adoption of the resolution.

Those voting in favor of the motion were Council Members Clark, Besse, Burke, Malloy, Merschel, and Terry. Opposed: None. Excused from voting: Council Member Johnson. The motion carried on a vote of six in favor, none opposed, one excused from voting.

11. RESOLUTION FIXING DATE FOR HEARING ON PETITIONS TO CLOSE AND ABANDON CERTAIN STREETS IN THE HAPPY HILLS HOPE VI REDEVELOPMENT AREA – *Petition of the Housing Authority of Winston-Salem. Public Hearing: August 15, 2005. [This petition was recommended by Public Works Committee and a hearing was held on June 20. However, since the representative for the petitioners failed to notify adjoining property owners, this item is placed on the agenda to set a new public hearing date.]*

Council Member Johnson made a motion for adoption.

Council Member Burke: Second.

Council Member Johnson pointed out that the process for handling street closures has been changed to make sure that certified letters are sent out to all adjoining property owners. The petitioner failed to do that in this case and this is why the item was sent back to Council. In the future, the City Secretary's office will send the certified letters and bill the petitioner.

The motion for adoption was unanimously carried.

12. MAYOR PRO TEMPORE BURKE'S RECOMMENDATION FOR APPOINTMENT TO THE COMMUNITY APPEARANCE COMMISSION: *Lawrence W. Snively, Term Expiring February, 2007.*

Council Member Burke: Motion for approval.

Council Member Terry: Second. Unanimous.

Mayor Joines recognized Council Member Clark at this time for a motion prior to consideration of Item 13.

Council Member Clark made a motion for the City Council to enter into Closed Session to consider an economic development matter pursuant to N.C.G.S. 143-318.11(a)(4) and to consider a related matter in litigation, Delma Blinson, et al v. City of Winston-Salem, et al, 05 CVS 08738, pursuant to N.C.G.S. 143-318.11(a)(3).

Council Member Terry: Second. Unanimous.

The Council entered into Closed Session at 9:04 p.m.

At 9:29 p.m., Council Member Burke made a motion to dissolve the Closed Session and resume Regular Session.

Council Member Terry: Second. Unanimous.

Mayor Joines asked the City Secretary to read Item 13 (a & b).

13. CONSIDERATION OF ITEMS RELATING TO THE DELL PROJECT:

- a. RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE DELL, INC. ECONOMIC DEVELOPMENT PROJECT, PURSUANT TO N.C.G.S. 158-7.1(a) – *Public Hearing: July 18, 2005.*
- b. RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE CONVEYANCE OF REAL PROPERTY FOR AN ECONOMIC DEVELOPMENT PROJECT PURSUANT TO N.C.G.S. 158-7.1(d) – *Public Hearing: July 18, 2005.*

Council Member Merschel made a motion for approval of both resolutions as listed.

Council Member Johnson: Second. Unanimous.

ADJOURNMENT: 9:30 p.m.