

D-26874

Summary of Minutes

May 2, 2005

A Regular Meeting of the Winston-Salem City Council was held on Monday, May 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	Vivian H. Burke
	Robert C. Clark	Nelson L. Malloy, Jr.
	Dan Besse	Wanda Merschel
	Joycelyn V. Johnson	Frederick N. Terry

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

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

Invocation: Dr. Seth O. Lartey of Goler Memorial AME Zion Church

Pledge of Allegiance

Mayor Joines commented that although Sara Lee Corporation has announced a plan for downsizing some of its local operations, there is some positive economic news, and he recognized Council Member Burke.

Council Member Burke remarked that concerns have been expressed regarding local companies working on the Dell project. She advised that both the architectural firm and the water engineering firm are from Winston-Salem and/or Forsyth County. In addition, Dell has contracted with a local roofing company and steel company, and local companies will be doing some dry wall and painting work at the site. Council Member Burke stated that a report would be coming out regarding contractors and subcontractors who have been hired to work on the Dell project.

Mayor Joines added that approximately 40 percent of all subcontracting work is going to local companies.

Mrs. Henderson read the following resolution:

RESOLUTION RECOGNIZING MAY 15-21, 2005 AS NATIONAL PUBLIC WORKS WEEK

Council Member Terry: Motion for adoption.

Council Member Johnson: Second. Unanimous.

Council Member Johnson, Chair of the Public Works Committee, asked that the other committee members join her in presenting a copy of the resolution to Mr. Greg Turner, Assistant City Manager/Public Works.

Mrs. Henderson read the following resolution:

RESOLUTION DECLARING MAY, 2005 AS HISTORIC PRESERVATION MONTH IN WINSTON-SALEM

Council Member Besse: Motion for adoption.

Council Member Johnson: Second. Unanimous.

Council Member Besse presented a framed copy of the resolution to Mr. Jim Vaughn, Vice Chair of the Historic Resources Commission.

Mrs. Henderson read the following resolution:

RESOLUTION RECOGNIZING MAY 7-15, 2005 AS NATIONAL TOURISM WEEK

Council Member Burke: Motion for adoption.

Council Member Merschel: Second. Unanimous.

Council Member Burke advised that this resolution would be delivered to the Visitors and Convention Bureau staff.

1. PUBLIC HEARING REGARDING THE CITY OF WINSTON-SALEM APPROVING AN AMENDMENT TO AN INSTALLMENT PURCHASE CONTRACT WITH THE NORTH CAROLINA MUNICIPAL LEASING CORPORATION TO PROVIDE FUNDING FOR VARIOUS CAPITAL PROJECTS.

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, and noted that no action was required of the Council at this time.

2. CONSIDERATION OF ITEMS RELATING TO A PETITION TO CLOSE A PORTION OF VEST MILL ROAD: *[Recommended by Public Works Committee.]*
 - a. PUBLIC HEARING AND RESOLUTION ORDERING THE CLOSING OF A PORTION OF VEST MILL ROAD IN THE SOUTHWEST WARD (Council Member Besse) – *Petition of Marshall E. Rowell.*

Mr. Kim Hinshaw, 2125 Iron Ridge Drive, East Bend, stated that his concerns have been addressed and he no longer opposes this closure.

Mayor Joines asked if anyone else wished to speak. Hearing no one, he declared the public hearing closed.

Council Member Besse: Motion for adoption.

Council Member Johnson: Second. Unanimous.

- b. RESOLUTION APPROVING AN ENCROACHMENT AGREEMENT WITH MARSHALL E. ROWELL.

Council Member Besse: Motion for adoption.

Council Member Clark: Second. Unanimous.

3. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF CENTEX HOMES FOR PROPERTY OWNED BY OLLIE J. SHOUSE AND JOHN W. JAMES, JR. TRUSTEE FROM RS-9 AND LB TO RM-12-S (Residential Building, Single-Family; Residential Building, Duplex; Residential Building, Twin Home; Residential Building, Multi-Family; and Residential Building, Townhouse): Property located on the west side of Bethania Station Road and the southern side of Shattalon Drive – Containing approximately 25.73 acres located in the NORTH WARD (Council Member Malloy) – Zoning Docket W-2755. *[Planning Board recommends approval of petition and site plan with staff recommendations with the following additional conditions: the road connection to James Street will not be required and no sidewalks will be required along Bethania Station Road. This item was continued from the April 4 Council meeting and remanded to the Planning Board for clarification regarding road widening and sidewalks.]*

Mr. Joe Jenkins, 308 Top Water Lane, Greensboro, appeared on behalf of Centrex Homes. He described the projects and presented an architect's rendering of the appearance and elevation of the structures. He explained infrastructure improvements which are proposed for the site.

No opposition to the petition was expressed.

Mayor Joines declared the public hearing closed and recognized Mr. Norby for the recommendation of the Planning Board.

Mr. Paul Norby, City/County Planning Director, stated that additional discussion has occurred among staff, the petitioner, and the Planning Board regarding street and sidewalk improvements along Bethania Station Road since the April 4 meeting, since there was some confusion about exactly what was being recommended. He stated that the petitioner has agreed to dedicate the full right-of-way for the ultimate widening of Bethania Station Road as recommended in the Thoroughfare Plan, and would allow for selected widening at the entrance points of the development off Bethania Station Road, plus the addition of sidewalks along the entire length of Bethania Station Road. He advised that the Planning Board recommends approval of the petition and site plan with the clarification of those conditions.

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

Council Member Merschel: Second. Unanimous.

4. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF JOSE LOYA ROQUE FROM RS-9 TO RSQ-S (Residential Building, Multi-family): Property located on the northeast corner of Sprague Street and Urban Street – Containing approximately .29 acre located in the SOUTHEAST WARD (Council Member Terry) - Zoning Docket W-2745. *[Planning Board recommends approval of petition and site plan with staff recommendations. This item was continued from the March 7, March 28, and April 4, 2005 Council meetings.]*

Appearing in favor of the petition was Mr. Angelo Franceschina, 301 N. Main Street.

No opposition was expressed.

Mayor Joines declared the public hearing closed.

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 Terry 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 Merschel: Second. Unanimous.

5. PUBLIC HEARING ON ZONING PETITION OF BMC LAND COMPANY, INC. FROM IP TO GB-S (Building Materials Supply; Implement Sales and Services; Wholesale Trade A; Motor Vehicle, Repair and Maintenance; Motor Vehicle, Body or Paint Shop; Services, Business A; Storage Services, Retail): Property located on the northwest corner of Northwest Boulevard and Chestnut Street – Containing approximately 1.78 acres located in the EAST WARD (Council Member Johnson) – Zoning Docket W-2760. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

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

At the request of Council Member Johnson, Mr. Ed Zotian, 1076 West Fourth Street, explained that the petitioner plans additional plantings in front of the property along Chestnut Street and along the boundary of the adjacent RM-18. He clarified that there will be 30 parking spaces according to the revised site plan. There will be no outdoor storage of building supplies. However, the City Code does allow the overnight storage of vehicles waiting for repair, but there could be no more than two per bay, for a total of ten.

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 revisions outlined by Mr. Zotian.

Council Member Clark: Second.

Council Member Burke remarked that a lot of money and effort has been invested in this neighborhood and hopefully this proposal will make this property much more presentable.

The motion for approval was unanimously carried.

Mr. Norby stated that staff would make sure the zoning documents reflected Mr. Zotian's comments and revisions.

6. PUBLIC HEARING ON ZONING PETITION OF ST. PAUL'S PLACE, INC. FROM RM-18 (HO) TO LO-S (HO) (Residential Building, Multi-Family; Offices, Miscellaneous; Professional Office): Property located on the west side of Summit Street north of Sixth Street – Containing approximately .26 acre located in the NORTHWEST WARD (Council Member Merschel) – Zoning Docket W-2761. *[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 petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Burke: Second. Unanimous.

7. PUBLIC HEARING ON ZONING PETITION OF BF REAL I, LLC FROM CPO TO GB-S (Professional Office; Food or Drug Store; Banking and Financial Services; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Health Service, Miscellaneous; Retail Store, Specialty or Miscellaneous; Wholesale Trade A; Restaurant(without drive through service); Restaurant(with drive through service); Arts and Crafts Studio; Car Wash; Medical and Surgical Offices; Medical or Dental Laboratory; Non-Store Retailer; Testing and Research Lab; Services, Business A; Services, Business B; Services, Personal; Recreation Services, Indoor; School, Private; School, Vocational or Professional; Broadcast Studio; Government Offices; Club or Lodge; Museum or Art Gallery): Property located on the southeast corner of Hanes Mall Boulevard and Frontis Plaza Boulevard – Containing approximately 1.01 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2762. *[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 petition, adoption of the zoning ordinance and approval of the site plan and special use district permit.

Council Member Burke: Second. Unanimous.

8. PUBLIC HEARING ON ZONING PETITION OF COUNTRY CLUB COMMONS, LLC AND TRENWEST MANAGEMENT, LLC FROM LO-S TO LO-S (Professional Office; Offices, Miscellaneous; Medical and Surgical Offices; Banking and Financial Services – Site Plan Amendment): Property located on the southwest corner of Country Club Road and Dalewood Drive – Containing approximately 9.4 acres located in the SOUTHWEST WARD (Council Member Besse) – Zoning Docket W-2764. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

Mr. Norby 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

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 addition of the following two conditions: under “Prior to the Issuance of Occupancy Permits” add the following:

A continuous row of Leyland Cypress trees , 6-8 oc and 6’ high at time of planting will be placed adjacent to the single-family residences to the south beginning at the western property

line, continuing eastwardly to a point behind building number five then southwardly to the southernmost property line. The Leyland Cypress shall be planted below the retaining wall which is shown on the site plan.

Under “Other Conditions:”

The two dumpsters as shown on the site plan will be moved a minimum of 150’ to the north away from the single-family residential property to the south.

Council Member Burke: Second. Unanimous.

9. PUBLIC HEARING ON ZONING PETITION OF HAROLD HILL FOR PROPERTY OWNED BY SOUTHSIDE LAND PARTNERS II AND SOUTHSIDE LAND COMPANY FROM RS-9 TO HB-S (Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; School, Vocational or Professional): Property located on the northwest corner of Clemmonsville Road and Orchard View Drive – Containing approximately 1.17 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2759. *[Planning Board forwarded this item to the Council with four in favor and four opposed, but approval of the 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 petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Merschel: Second. Unanimous.

10. PUBLIC HEARING ON ZONING PETITION OF WESTWOOD CLUB, INC. FROM RS-9 AND IP-S TO IP-S (Club or Lodge): Property located on the east side of Harper Street and the west side of Silas Creek Parkway north of Business I-40/US 421 – Containing approximately 4.33 acres located in the SOUTHWEST WARD (Council Member Besse) – Zoning Docket W-2754. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one appeared in favor of the petition.

Speaking in opposition to the petition were Mr. David Curry, 232 Harper Street, and Mr. Don Green, 231 Harper Street. Mr. Curry and Mr. Green expressed concerns regarding increased traffic and parking congestion in the neighborhood, aesthetics of the planned structure, commercial creep, and potential damage to property values. Mr. Curry and Mr. Green also raised questions regarding notification of the neighborhood.

Mayor Joines asked if anyone else wished to be heard. Hearing no one, he declared the public hearing closed.

During the presentation of the Planning Board recommendation, Mr. Norby explained the notification procedure as set out in the UDO. Planning staff and City Secretary staff send separate letters to adjoining property owners from a list obtained through the Forsyth County Tax Office. In addition, anyone speaking at the Planning Board public hearing will also be notified in writing. Otherwise, notice is served through a legal advertisement in the Winston-Salem Journal and posted signs prior to the Planning Board public hearing. He described the proposed project and noted that the Planning Board recommended approval of the petition.

Council Member Besse made a motion for denial of the petition.

Council Member Merschel: Second.

Council Member Besse commented that he has not heard from the petitioner at all. He

continued by stating that the currently operating Westwood Club seems to be managed well. There are intermittent problems with parking during certain times and events, but generally has been a good neighbor. However, this proposed expansion would create parking and traffic problems which would be clearly out of character with the neighborhood.

Council Member Clark stated that he wanted to make sure that proper notice was given, especially since the proponents are not present.

Mr. Norby confirmed that the petitioners were notified in writing of the public hearing.

Council Member Besse remarked that he would be willing to reconsider the matter if it is determined that the petitioner did not receive a notice of the meeting.

Mayor Joines called for the vote on the motion.

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

11. PUBLIC HEARING ON ZONING PETITION OF HONG S. ROH, BONG ROH, LESZEK DZIECIOL, HENRY L. CROSSWHITE, RANDY MCCORMICK AND CAROL MCCORMICK FROM RS-9 TO LO-S (Professional Office; Offices, Miscellaneous): Property located on the northwest corner of Country Club Road and Piccadilly Drive – Containing approximately 1.77 acres located in the WEST WARD (Council Member Clark) – Zoning Docket W-2765. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

No one heard.

At the request of Council Member Clark, Mr. Doug Stimmel, 601 N. Trade Street, Suite 200, explained changes made to the site plan in response to concerns regarding the depth of the parking lot and buffering for this project. He advised that a 50-foot strip of RS-9 zoned land has been left undisturbed. After communicating with the adjoining property owner, the petitioners are willing to

install an 8-foot opaque fence as an additional condition of the site plan.

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 Clark 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 additional condition for the fence.

Council Member Johnson: Second. Unanimous.

12. PUBLIC HEARING ON ZONING PETITION OF WAL-MART REAL ESTATE BUSINESS TRUST FOR PROPERTY OWNED BY GRADY ROTHROCK TRUSTEE, PHILLIP C. FISHEL, JR., BRENDA P. FISHEL, GRADY L. ESTEP, ET AL, JOSEPH A. HARRISON, CRAIG A. ROTHROCK, MARGIE W. ROTHROCK, MARILYN L. FISHEL FROM RS-9 TO MRB-S (Shopping Center): Property located on the south side of the proposed West Clemmons Road Extension and on the west side of Peters Creek Parkway – Containing approximately 26.7 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2757. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

Mrs. Henderson advised that a protest petition was submitted, but was determined to be insufficient.

Appearing on behalf of the petitioners was Attorney Tom Terrell, 529 West Parkway Avenue, High Point. He stated that there were several others with him tonight who would be able to respond to questions. Mr. Terrell remarked that this petition has received favorable recommendations from both the Planning staff and Planning Board. The property lies at the center of a designated major metro activity center and the petition complies with provisions of Legacy and UDO-118. He explained that stormwater is a concern for this neighborhood, and he was glad to say that site

development will include controls to redirect stormwater away from residential property. Wal-Mart has conducted a traffic study and has submitted a plan for managing traffic on and around the site.

Mr. John Dorman, an engineer with Kimley-Horn and Associates, 4601 Charlotte Park Drive, Suite 300, Charlotte, addressed the Council regarding buffer issues. He presented an illustrative cross-section of the buffer proposed between the site and the residential property on Kesteven Road. The buffer will be 80 feet wide, and the building itself will be approximately 200 feet from the southern property line. There will be a double row of plantings and a 5-10 foot berm along the majority of the southern property line. Finally, a ten-foot masonry wall will be installed on the top of the berm to provide both a visual and a sound barrier between Wal-Mart and the adjacent properties.

In response to Council Member Besse, Ms. Felicia Doggett of Metropolitan Acoustics, 40 West Evergreen Avenue, Suite 108, Philadelphia, Pennsylvania, stated that the barrier would be effective in keeping sound contained on the site. She explained that the wall barrier will be higher than the loading docks. The noise level is estimated to be at 50 DBA, which is within the criteria established by UDO-118.

Appearing in opposition to the petition was Mr. Tyler Morgan, 1618 Kesteven Road. He stated that the two existing Wal-Marts in Winston-Salem do not back up to established residential neighborhoods and this one should not be allowed to do so either. He explained the steps he took in filing the protest petition only to have it ruled insufficient by the Assistant City Attorney, due to a ten-foot strip of land between the site and the Kesteven Road residential properties. The ten-foot strip of land is not owned by Wal-Mart, nor is it included in this rezoning petition. Therefore, the property owners on Kesteven Road who signed the protest petition are not considered to be adjacent

property owners to the proposed site. Mr. Morgan expressed his objection to this ruling and stated that although it may be technically correct, it is morally wrong and unfair to the neighborhood, and was a deliberate move on the part of Wal-Mart to prevent the filing of a sufficient protest petition. He stated that Wal-Mart will be a major disruption to the neighborhood and he asked the Council to deny the petition.

Appearing next in opposition was Ms. Melissa Neal, 1613 Kesteven Road. She stated that she did not like the fact that Wal-Mart is open 24-hours, and there were a number of Wal-Marts in the area to satisfy any need for shopping.

Ms. Melynda Dunigan, 1875 Mallard Lakes Drive, spoke on behalf of the Twin Cedars Neighborhood Association and the Winston-Salem Neighborhood Alliance. She expressed the Alliance's objection to the ruling regarding the sufficiency of the protest petition. Ms. Dunigan stated that she believes that the language of the ordinance is ambiguous and the City Attorney's office is interpreting it as requiring that property eligible to sign the petition be immediately adjacent to one side of the land being requested for rezoning. She noted that this interpretation is at odds with that of the Institute of Government which assumes that the qualifying area is the area within 100 feet of one side and that any property owner within the qualifying area would be eligible to sign the petition. She expressed her opinion that the Institute's interpretation makes the most sense and this instance particularly illustrates why the City Attorney's interpretation is unfair to neighborhoods. The purpose of the protest petition is to give special consideration to the parties who will be most directly affected by a zoning change. However, in this case, it was ruled that the existence of a ten-foot wide swath of land, too narrow to build a house on, was sufficient to disqualify the protest petition. Ms. Dunigan requested that the language in the City Code regarding protest petitions be

revisited and clarified to allow for a broader interpretation.

Also speaking in opposition was Ms. Marvette Aldrich, 1617 Kesteven Road. She stated that her house will be directly affected by Wal-Mart and she expressed her strong objection to having to deal with the constant noise and scattered lighting which will be produced by this large store. She commented that it is not right to allow the invasion of a residential neighborhood in this manner.

During his rebuttal time, Mr. Terrell advised that approximately six to eight large trucks service Wal-Mart per day. He stated that a light study has been done of the site and at the southern property line, it has been determined that the light from Wal-Mart would be minimal.

Mr. Morgan stated that he believed that the protest petition should be taken into consideration and to disregard it due to a ten-foot section of land is not fair. He remarked that there were other more appropriate locations for Wal-Mart to build instead of against this residential neighborhood.

Mrs. Nancy Park, 3816 Carnegie Lane, Raleigh, stated that she and her husband owns the ten-foot strip of property and she would have been willing to work with the neighbors had she been notified of this petition.

Ms. Aldrich reiterated her opposition to the proposal.

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.

At the request of Council Member Robinson, Mr. Ron Seeber, City Attorney, explained that the City's zoning ordinance mirrors language in the State statutes regarding the filing of a protest petition, and he read the section of the UDO setting forth the provisions of a protest petition. He proceeded to explain his office's ruling on the protest petition submitted for this particular rezoning matter.

Additional discussion ensued with staff responding to questions from Council Members regarding the designation of metro activity centers, proposed traffic improvements, and performance standards for the site plan conditions.

It was confirmed by staff that the property owner of the ten-foot strip was correctly notified of the public hearing on this petition.

At the request of Council Member Robinson, Mr. Greg Turner, Assistant City Manager/Public Works explained the proposed traffic improvements which will mitigate the increase of traffic due to development of the site. He advised that there will also be a dual eastbound left turn lane from Clemmonsville Road Extension onto Peters Creek Parkway. Mr. Turner stated that traffic estimates for this development would increase traffic on Peters Creek Parkway to approximately one-half of its capacity.

**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 petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit.

Council Member Johnson: Second.

Council Member Clark asked if Council Member Johnson, who is the current President of the North Carolina League of Municipalities, to bring up the issue of adjoining property owners as they are considered for filing of protest petitions at a future League committee meeting. He stated that he understands that the matter has been resolved by the North Carolina Supreme Court, but he believes it was a legitimate point of discussion.

Council Member Johnson stated that she would be glad to do so, and requested that a letter be sent from the Council to the League to the attention of Mr. Marshall Pitts, Chair of the Community and Economic Development Committee.

Council Member Clark expressed his disappointment that three members of the Planning Board were absent from the Planning Board meeting and therefore did not vote on this petition.

The motion for approval was unanimously carried.

13. PUBLIC HEARING ON ZONING PETITION OF THE CITY OF WINSTON-SALEM FOR PROPERTY OWNED BY GRADY L. ESTEP, GRADY ROTHROCK, MARGIE ROTHROCK, CRAIG A. ROTHROCK, PHILLIP C. FISHEL, JR., BRENDA P. FISHEL, MARILYN L. FISHEL, JOSEPH H. HARRISON AND JOHN A. PARR FROM COUNTY RS-9 TO CITY RS-9: Property located on the south side of proposed West Clemmonsville Road Extension west of Peters Creek Parkway – Containing approximately 23.91 acres located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2766. *[Planning Board recommends approval of petition. This property was annexed into the City by Council action on March 28, 2005.]*

Mayor Joines stated that approval of the previous zoning petition makes action on this petition moot. He asked for a motion to withdraw the petition.

Council Member Burke: Motion for withdrawal of W-2766.

Council Member Johnson: Second. Unanimous.

At 9:50 p.m., Mayor Joines called for a brief recess.

Mayor Joines called the meeting back to order at 9:55 p.m.

14. PUBLIC HEARING AND ORDINANCE AMENDING CHAPTER, ARTICLE II, SECTION 2-58(H)(1)(a) OF THE UNIFIED DEVELOPMENT ORDINANCES REGARDING PRD BUFFERS – *Proposal of Peace Haven Properties, LLC – UDO-131. [Planning Board recommends approval.]*

No one heard.

Council Member Merschel: Motion for adoption.

Council Member Malloy: Second. Unanimous.

15. PUBLIC HEARING AND ORDINANCE AMENDING CHAPTERS A AND B OF THE UNIFIED DEVELOPMENT ORDINANCES TO CREATE A NEW USE CLASSIFICATION OF “MEDICAL WASTE TREATMENT FACILITY” TO BE ALLOWED IN CI, LI, AND GI ZONING DISTRICTS – *Proposal of East Coast Capital, Inc. – UDO-132.*

Mr. Norby gave the staff presentation on this item.

In response to Council Member Burke, Mr. Ronnie Grubbs, Assistant Inspections Director, stated that these facilities are regulated and licensed by the State.

Council Member Burke expressed a concern about public safety and who would be charged with monitoring these sites for compliance. She also asked how the status of these facilities would be reported to the City.

Mayor Joines asked if anyone wished to be heard on this item. Hearing no one, he declared the public hearing closed.

Council Member Johnson stated that she has heard a number of concerns regarding this proposal, and she made a motion to remand this item to the Public Works Committee for its May 10 meeting. She commented that she would like to discuss this item prior to that meeting with the assistant city managers and Mr. Grubbs.

Council Member Clark: Second.

Council Member Merschel asked for location information on where these classifications currently exist in the City.

Council Member Besse requested information on which State division regulate and license these facilities and what, if any, setbacks would apply from property lines next to residential districts. The motion to remand this item was unanimously carried.

16. PUBLIC HEARING AND ORDINANCE AMENDING CHAPTER B, SECTION 5-2.8 OF THE UNIFIED DEVELOPMENT ORDINANCES REGARDING DISCONTINUED USE – *Proposal of City/County Inspections Division - UDO-130. [Planning Board forwarded this item to the Council with four in favor and four opposed.]*

No one heard.

Council Member Besse made a motion for adoption of the ordinance with a twelve-month limit.

Council Member Merschel: Second. Unanimous.

17. APPROVAL OF SUMMARY OF MINUTES – *April 4, 2005.*

Council Member Merschel: Motion for approval.

Council Member Terry: Second. Unanimous.

Mayor Joines recognized Council Member Burke for a motion.

Council Member Burke made a motion for the Council to enter into Closed Session pursuant to N.C.G.S. 143-318.11(a)(4) to discuss the location or expansion of an industry and/or business.

Council Member Merschel: Second. Unanimous.

The Council entered into Closed Session at 10:11 p.m.

At 10:19 p.m., Council Member Burke made a motion to adjourn the Closed Session and resume Regular Session. The motion was duly seconded by Council Member Malloy and unanimously carried.

ADJOURNMENT: 10:19 p.m.