

D-26925

Summary of Minutes

October 3, 2005

A Regular Meeting of the Winston-Salem City Council was held on Monday, October 3, 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	Frederick N. Terry

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

Sergeants at Arms: Lieutenant Connie F. Southern and Lieutenant David L. Kiger

Invocation: Father Demetri Kangelaris of the Greek Orthodox Church

Pledge of Allegiance

1. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF WAL-MART REAL ESTATE BUSINESS TRUST FROM HB-S (Shopping Center) TO SITE PLAN AMENDMENT: Property located on the north side of Hanes Mill Road west of Angel Oaks Drive – Containing approximately 20.47 acres located in the NORTHEAST WARD (Council Member Burke) – Zoning Docket W-2787. *[Planning Board recommends approval of petition and site plan with staff recommendations. This hearing was continued from the September 6 and September 19 Council meetings.]*

Council Member Burke made a motion to continue the item to the November 7, 2005 City Council meeting to allow the petitioner to complete contact and discussion of the site plan changes with adjoining property owners at the northwestern corner of the property.

Council Member Merschel: Second.

Council Member Burke commented that the Council had been patient with the petitioner and noted that she would recommend the item be removed from further consideration if the petitioner does not finalize discussions with the adjoining property owners.

Council Member Clark inquired about the status of contact with residents by the petitioner.

Mr. Paul Norby, City/County Planning Director, stated that as of today, the petitioner had not sent notices to the adjoining property owners. He noted that no one representing the petitioner was in attendance at the meeting.

The motion to continue the item to November 7, 2005 was unanimously carried.

2. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF THE HOUSING PARTNERSHIP OF WINSTON-SALEM/FORSYTH COUNTY AND THE CITY OF WINSTON-SALEM FROM LO TO PB-S (Residential Building, Single-Family): Property located on the north side of Second Street east of Spring Street – Containing approximately .76 acre located in the NORTHWEST WARD (Council Member Merschel) – Zoning Docket W-2790. *[Planning Board recommends approval of petition and site plan with staff recommendation. This hearing was continued from the September 6 Council meeting.]*

Council Member Merschel explained that numerous easements and underground utilities had been discovered on the lot, and made a motion to continue the item to November 7, 2005.

Council Member Burke: Second. Unanimous.

Council Member Terry noted that a request had been received to remove Item 11 from tonight's agenda. He pointed out that several people were in attendance for the item and asked to consider it at this time.

11. PUBLIC HEARING ON ZONING PETITION OF FOOTHILL FINANCIAL GROUP, INC. FROM RS-9 AND LI TO LI: Property located on the south side of Indiana Avenue, west of University Parkway – Containing approximately 12.63 acres located in the NORTH WARD (Council Member Malloy) – Zoning Docket W-2796. *[Planning Board recommends denial of petition.]*

Mayor Joines stated that a request had been received from Foothill Financial Group requesting to remand the item to the Planning Board.

Council Member Malloy: Motion to remand the item to the Planning Board.

Council Member Merschel: Second. Unanimous.

3. PUBLIC HEARING ON ZONING PETITION OF SALEM ACADEMY & COLLEGE FROM RSQ TO C: Property located on the southeast corner of Salem Avenue and Stadium Drive – Containing approximately 2.45 acres located in the EAST WARD (Council Member Johnson) – Zoning Docket W-2791. *[Planning Board recommends approval of petition.]*

No one heard.

Council Member Johnson requested a brief staff report on the item.

Mr. Norby explained that there are currently five residential structures on 2½ acres of property and they are not eligible for the National Register of Historic Places. He noted that the proposed zoning change would be consistent with the South Central Area Plan, and the Planning Board recommends 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 Johnson: Motion to approve.

Council Member Clark: Second. Unanimous.

4. PUBLIC HEARING ON ZONING PETITION OF SCOTT NAFE FROM GI TO LI: Property located on the south side of Salem Creek Drive west of Griffith Road – Containing approximately .54 acre located in the SOUTH WARD (Council Member Robinson) – Zoning Docket W-2792. *[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 to approve.

Council Member Clark: Second. Unanimous.

5. PUBLIC HEARING ON ZONING PETITION OF THE CAROLINA POSTAL CREDIT UNION FROM HB TO GB: Property located on the north side of Coliseum Drive west of University Parkway – Containing approximately .90 acre located in the NORTHWEST WARD (Council Member Merschel) – Zoning Docket W-2793. *[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 Merschel noted that in order to expand their business, the petitioner had to apply for rezoning to address setback issues. She made a motion to approve the item.

Council Member Terry: Second. Unanimous.

6. PUBLIC HEARING ON ZONING PETITION OF THE CITY OF WINSTON-SALEM FROM COUNTY RS-9 AND MU-S (Two Phase) TO CITY RS-9 AND MU-S (Two Phase): Property located on the west side of Meadowlark Drive south of Robinhood Road – Containing approximately 121.57 acres located in the WEST WARD (Council Member Clark) – Zoning Docket W-2794. *[Planning Board recommends approval of petition and site plan. This property was annexed into the City by petition on September 6, 2005.]*

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 Clark expressed his approval of this item and noted that it would result in a \$700 million investment for the City. He 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 CLJK FAMILY PROPERTIES, LLC FROM LI TO HB: Property located on the north side of Business 40 and the south side of Myer Lee Drive – Containing approximately .29 acre located in the EAST WARD (Council Member Johnson) – Zoning Docket W-2795. *[Planning Board recommends approval of petition.]*

Council Member Johnson requested the architect display the proposed sign via the site plan for the Council’s review.

Mr. John Barrett, 1100 Reynolda Road, showed an example of the sign, as well as pointed out its proposed location. In response to Council Member Clark, he stated that the sign would be 35-feet in height and 10-feet wide, in compliance with the City Code.

Mr. Norby pointed out that since this is a general use zoning case, the petitioner is not required to construct the sign in the manner demonstrated.

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

Council Member Johnson: Motion to approve.

Council Member Terry: Second. Unanimous.

8. PUBLIC HEARING ON ZONING PETITION OF EDDIE A. AND GLADYS W. RICE FROM RS-9 TO RM-8-S (Residential Building, Townhouse): Property located on the southwest corner of Griffith Road and Everidge Road – Containing approximately 7.40 acres located in the SOUTH WARD – Zoning Docket W-2798. *[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 Clark: Second. Unanimous.

9. PUBLIC HEARING ON ZONING PETITION OF RAY H. KIMEL AND CHRIS PARR CONSTRUCTION, INC. FROM RS-9 TO RM-8-S (Residential Building, Multi-Family): Property located on the north and south sides of Salem Crest Lane east of Ebert Road – Containing approximately 25.98 acres located in the SOUTH WARD – Zoning Docket W-2799. *[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

Mr. Norby noted that, in response to neighborhood concerns to the north of the property, the petitioner has agreed to change the site plan, allowing for the relocation of a proposed building site.

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

Council Member Terry: Second. Unanimous.

10. PUBLIC HEARING ON ZONING PETITION OF CITY OF WINSTON-SALEM AND DUKE POWER COMPANY FROM RSQ, RS-9, AND RM-18 TO LI: Property located on the north side of Twenty-Sixth Street and Indiana Avenue between Woodland Avenue and US 52 on the west and Fairchild Hills Road on the east – Containing approximately 34.49 acres and located in the NORTHEAST WARD (Council Member Burke) – Zoning Docket W-2788. *[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 to approve.

Council Member Johnson: Second. Unanimous.

12. PUBLIC HEARING AND ORDINANCE AMENDING CHAPTER B, ARTICLE II, SECTION 2-1.6(A) OF THE UNIFIED DEVELOPMENT ORDINANCES REGARDING THE NCO NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT – *UDO-143*.
[Planning Board recommends approval.]

The Mayor requested a brief staff report.

Mr. Norby explained that this amendment would allow and guide neighborhoods in the creation of an NCO District to maintain the character of an existing neighborhood. He noted that there was no opposition to the amendment expressed during the City/County Planning Board hearing.

Council Member Besse inquired about the removal of language from Subsection (iv) pertaining to changes made by local governments and utility companies.

Mr. Norby explained that the City Attorney's office had advised that the amendment would not be enforceable in those areas. He also explained that it would be the responsibility of the neighborhood to educate property owners on voluntary conservation standards which would not be enforceable by the City.

Council Member Terry asked if minor subdivisions within neighborhoods would be affected by the proposed text amendment.

Mr. Norby responded that some procedures and guidelines regarding public rights-of-way under minor subdivisions would be affected by the text amendment, requiring considerable support for a minor subdivision to be approved.

Mr. Angelo Franceschino, President, Rural Initiative Project, 301 N. Main Street, expressed his support for the text amendment. He noted that many homes are being restored in Waughtown and the area would benefit from an NCO district.

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

Council Member Johnson: Motion to approve.

Council Member Terry: Second.

Council Member Besse noted that residents of the Windsor Road area had recently contacted him with concerns over a proposed minor subdivision, and expressed their support for this text amendment.

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

13. PUBLIC COMMENT AND CONSIDERATION OF ORDINANCE AMENDING CHAPTER 6 OF THE CITY CODE RELATING TO ANIMALS AND FOWL. *[Recommended by Community Development/Housing/General Government Committee.]*

Mr. Ron Seeber, City Attorney, stated that this amendment had been proposed by Council Member Terry to include chickens and other fowl, as well as pigeons under the fencing and shelter setback requirements.

Ms. Vicky Smith, 2518 South Peachtree Street, expressed a concern that she had recently been informed by the City that, under the 150-foot setback requirement, she would have to get rid of her pygmy goats. She noted that she had raised the animals since birth and that she had dogs bigger than the goats.

Mayor Joines pointed out that the item being considered would not encompass her request. He requested that staff review her situation and determine the appropriateness of the 150-foot requirements. Mayor Joines asked if anyone else wished to speak. Hearing no one, he declared the public hearing closed.

Council Member Terry noted that there is a problem with the keeping and sheltering of farm animals within the City limits. He made a motion to approve the item.

Council Member Merschel: Second.

Council Member Robinson suggested a less restrictive ordinance to take care of the problem of keeping chickens for food and unsanitary disposal of carcasses.

Council Member Terry stated that there is a problem with the toxicity of chicken and pigeon waste.

Council Member Clark expressed a concern that the 150-foot setback would prohibit the keeping of farm animals unless a resident has a large parcel of land.

Council Member Johnson noted problems with chickens running loose, as well as issues with carcass disposal.

Council Member Burke expressed a concern over residents not cleaning up after their animals and inconsistencies in Code enforcement.

Council Member Robinson inquired about property at the corner of Silas Creek Parkway and Ebert Street, as well as Burke Mill Road and Stratford Road.

Council Member Besse stated that the property houses goats and complies with the City Code. He questioned if the proposed Code amendment should require that farm animals be maintained within a fenced area.

Mr. Seeber noted that more specific language could be added to the proposed amendment for clarity. He stated he could develop proposed language and bring it back to the Council's next meeting for consideration.

Council Member Malloy expressed a concern about the 150-foot setback and inquired about the possibility of decreasing the length of the setback.

Council Member Johnson made a substitute motion to remand the item to the General Government Committee and have it placed on the October 24, 2005 City Council agenda for consideration.

Council Member Burke: Second. Unanimous.

Council Member Burke stated that there are 10 dogs being kept at one property in the area of Tise Avenue and Ada Avenue. She requested that the Police Department monitor the area near the school bus stops in the mornings and afternoons, as well as other school areas to ensure the protection of school kids from dogs running loose.

Council Member Terry expressed concern over the efficiency of Forsyth County Animal Control and suggested City staff meet with Animal Control staff to discuss improvement of their efforts.

14. APPROVAL OF SUMMARY OF MINUTES – *September 6, 2005.*

Council Member Burke: Motion for approval.

Council Member Clark: Second. Unanimous.

Mayor Joines recognized Council Member Malloy for a motion.

Council Member Malloy made a motion for the 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 instruct staff concerning the position to be taken on behalf of the City in negotiating the price and other material terms for the acquisition of real property pursuant to N.C.G.S. 143-318.11(a)(5).

Council Member Burke: Second. Unanimous.

The Council entered into Closed Session at 8:18 p.m.

At 9:25 p.m., Council Member Johnson 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: 9:25 p.m.