

D-26915

Summary of Minutes

September 6, 2005

A Regular Meeting of the Winston-Salem City Council was held on Tuesday, September 6, 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 and Paige L. Deal, Recording Secretary

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

Invocation: Reverend Bret Cogan of Wesley Memorial United Methodist Church

Pledge of Allegiance

Mayor Joines asked for a moment of silence for the victims of Hurricane Katrina.

Mrs. Henderson read the following:

**PROCLAMATION REGARDING “STEP UP” FORSYTH COMMUNITY WALKING PROGRAM**

Council Members Johnson and Besse presented this proclamation to Ms. Sheila Bogan of the Forsyth County Health Department.

1. CONSIDERATION OF ITEMS RELATING TO A PETITION FOR SATELLITE ANNEXATION OF 121.57 ACRES LOCATED OFF MEADOWLARK DRIVE – *Petition of Brookberry Farm, 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 Clark: Motion for adoption.

Council Member Johnson: Second. Unanimous.

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

Council Member Clark: Motion for adoption.

Council Member Johnson: Second. Unanimous.

2. 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.]*

Council Member Burke made a motion to continue this item to September 19, and requested that the petitioners contact the neighbors to determine if there were any concerns regarding this proposed site plan amendment.

Council Member Malloy: Second. Unanimous.

3. 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.]*

Council Member Merschel commented that a last minute technical issue has come up, and she made a motion to continue this item to October 3.

Council Member Burke: Second. Unanimous.

4. PUBLIC HEARING ON ZONING PETITION OF MARY SINK WOOSLEY HEIRS, CARE OF CAROLYN S. SHORE, DONNIE MAXTON NEWSOM, RUTH T. SPACH, STEPHEN PHILLIP NEWSOM, JAMES ALLEN WOOSLEY, AND ROMA

WOOSLEY CAUSBY FROM RS-9 to RM-8-S (Residential Building, Single Family, Residential Building, Duplex, Residential Building, Twin Home, Residential Building, Townhouse, Residential Building, Multi-Family): Property located on the west and north sides of Romara Drive west of Jonestown Road – Containing approximately 45.04 acres located in the SOUTHWEST WARD (Council Member Besse) - Zoning Docket W-2789. *[Planning Board recommends approval of petition and site plan with staff recommendations.]*

Appearing on behalf of the petitioners was Mr. Doug Stimmel, 601 N. Trade Street, Suite 200. He stated that he and the developers have worked very closely with the Planning staff and have met multiple times with adjoining property owners and Council Member Besse in order to come up with site plan conditions which would address issues of concern. He presented a letter of support from the Westbrook Neighborhood Association.

Appearing in opposition to the petition was Mr. Duane Kirschenman, 4946 Killarney Court. He expressed a concern about a current easement which runs through the property, and noted that there have been conversations with the developers. He stated that nothing has been worked out yet, however, and he would prefer to see this matter continued until the easement matter can be resolved. Mr. Kirschenman also expressed a concern regarding the handling of stormwater since there is a drainage branch across the property with occasionally floods.

Also appearing in opposition was Ms. Gabriela Lee, 4929 Romara Court. Ms. Lee stated that she has met once with the developer regarding a proposed sewer line easement through her property. She advised that she has a small barn on the property which is very close to where the developer wishes to have the easement and no one has explained to her how that might happen or how she would be compensated. Ms. Lee commented that she has asked for at least a 50-foot setback from her property, and she has not been satisfied that the developers' plans for stormwater run-off will sufficiently control the velocity of the water and keep contaminants away from her property. She

also mentioned that the developer has requested that her access easement be moved and she continues to have questions regarding that issue as well.

Mr. James Rose, 4900 Stonington Road, commented that he did not want to see the extension of Stonington Road in the Westbrook development, due to increased traffic and safety concerns.

During the rebuttal time, Mr. Stimmel stated that the developers continue to work with Mr. Kirschenman and Ms. Lee to resolve issues relating to easements, and feel that they are very close to working these out. He noted that access issues are more of a private nature than a zoning issue.

Mr. Kirschenman and Ms. Lee indicated that they would prefer to have these matters taken care of prior to the rezoning.

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

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

Discussion ensued regarding stormwater issues. Council Members expressed concerns about the commitment of the developer to address stormwater run-off during and after the construction phase.

Mr. Stimmel stated that he and the developer have met several times with City staff and there are potential plans to rebuild an existing pond on the site to slow down and contain stormwater. He remarked that the developer is prepared to work with the City to mitigate stormwater concerns as much as possible. In response to Council Member Merschel, Mr. Stimmel explained that grading of the site will be graded in sections, and each section will be stabilized before the grading continues on another section. There will be no clear cutting of the site. The developer has also looked at two downstream pipes and if they are determined to be inadequate, the developer has agreed to consider

replacing those two pipes if the property owners concur. Mr. Stimmel stated that the developer is amenable to having these two points added as conditions of the rezoning.

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

Mayor Joines recognized Council Member Besse at this time.

Council Member Besse stated that he has met with the petitioners and neighborhood association and spoken with Mr. Kirschenman and Ms. Lee, and he has prepared a motion which has a number of condition modifications to address issues that have been raised by the neighborhood association and by downstream neighbors. Council Member Besse made a motion for approval of the rezoning petition, adoption of the zoning ordinance, and approval of the site plan and special use district permit with additional conditions. First, under the Planning Board recommendation, there are specific requirements that a stormwater management study be submitted to Public Works prior to the issuance of grading permits, and prior to the issuance of occupancy permits, that the developer shall install all required stormwater management devices which would include addressing the downstream pipes that carry stormwater underneath Chippendale and past the Wexford area. It would also include, where required by the Public Works Department, to address the volume and velocity of stormwater run-off from the site as it would impact the receiving streams. There are some jurisdictional wetlands questions that will be looked at, including the volume and velocity of run-off impacts and the possibility of additional retention requirements. As a practical matter, Council Member Besse remarked that it was not possible to put all those details in specific

conditions at the time of rezoning, but that it was reasonable in this case to anticipate that they could be technically resolved and that the conditions with regard to the stormwater management study and the installation of required stormwater management devices would resolve them. He offered a couple of other modification proposals to further address stormwater management problems. One, as discussed by Mr. Stimmel, would be an additional requirement that the development be graded in phases coordinated with planned construction, which would be particularly helpful during the construction phase to address erosion and sedimentation problems. Council Member Besse stated that he believed that, in conjunction with the recent changes in the City's stormwater management ordinance, the recent additional staff, and an alert City enforcement staff should be sufficient to address problems coming from a site of this nature. To further address stormwater issues, he offered another modification to retain the curb and gutter frontage in the initial phase where there is sidewalk proposed up to the top, but eliminate the curb and gutter frontage requirement for the second and third development phases. In the process, also permit the shifting of the connecting sidewalk from Romara Road and add a requirement that the vegetation and the trees along the frontage not be graded. In order to address the strong objection from the Westbrook Neighborhood Association, Council Member Besse proposed that the connection to Stonington Drive not be made, although he advised that he initially recommended that connection to the neighborhood. After consideration of this recommendation, the neighborhood determined unanimously not to back that, and Council Member Besse stated that he would defer to their strongly expressed wishes. He therefore would like to include in his motion an amendment that would disconnect that connection, and recommended that the signalization requirement for Romara and Jonestown be made contingent on that intersection meeting a signal warrant within four years. Council Member Besse stated that

he thought it would be reasonable to tie the signalization of that intersection and the developer's responsibility for helping pay for that into the actual traffic flow through the intersection. With regard to the concerns expressed by Mr. Kirschenman and Ms. Lee regarding their private easements, Council Member Besse noted that, by law, the developer cannot actually build and extinguish those easements until they have reached a final settlement on compensation or replacement. That is under the control of all parties, not just the developer, and staging the grading on this site should ensure that there is plenty of time and opportunity to complete those negotiations.

Council Member Clark: Second.

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

5. CONTINUATION OF 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. This hearing was continued from the August 2 Council meeting.]*

Appearing in support of the rezoning petition was Mr. Julio Dibbi, 1411A Millgate Drive.

Mayor Joines asked if anyone else wished to be heard. Hearing no one, he 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 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.

6. PUBLIC HEARING AND ORDINANCE AMENDING CHAPTER B, ARTICLE IV – HISTORIC/HISTORIC OVERLAY DISTRICTS OF THE UNIFIED DEVELOPMENT ORDINANCES REGARDING DEMOLITION BY NEGLECT OF LOCAL HISTORIC LANDMARKS OR STRUCTURES WITHIN HISTORIC (H) OR HISTORIC OVERLAY (HO) DISTRICTS – UDO-141. [*Planning Board recommends approval.*]

Mayor Joines recognized Mr. Norby for a explanation of this proposed text amendment.

Mr. Norby defined the term “demolition by neglect” as being the lack of maintenance to a structure within one of the locally designated historic districts, historic overlay districts, or landmarks that would lead to decay and deterioration possibly beyond the point of repair. The State’s General Statutes provided for this measure in 1991, and there are other major North Carolina jurisdictions such as Raleigh, Durham, Greensboro, Fayetteville, and Wilmington that have similar features in their ordinances. He explained that the City’s strategic plan and Legacy recommend this action. Mr. Norby commented that demolition by neglect will help protect the integrity of homes within the designated districts by allowing action before structures become so seriously deteriorated that they have a damaging effect upon the larger neighborhood. He advised that this would only be implemented if there was substantial deterioration as determined by the Historic Resources Commission and/or the zoning officer. It allows the opportunity for repair and preventing property deterioration which would lead to possible demolition. Mr. Norby pointed out that there is a provision for economic hardship situations. If there was a property that was considered to be seriously deteriorated, a request for a determination could be made by either the neighborhood association, ten property owners in that district who sign a petition, City/County Inspections or

Housing Inspections staff, or Historic Resources Planning staff. Once the request for a determination is made and the property owner is notified, the Historic Resources Commission attempts to mediate with the property owner to try and resolve the situation. If no consent agreement is reached, the zoning officer would review the situation and if the officer determines that this is a property that would fall into this category, the officer would file a complaint and a hearing process would occur in accordance with the provisions of the ordinance. The order for repairs would either be issued or there would be some modification of the order based on economic hardship. Failure to make repairs after the order is issued would constitute a zoning violation.

Ms. Ferrell Clay, 433 Springdale Avenue, spoke as Chair of the Historic Resources Commission. She stated that the Commission has worked on this text amendment for a long time in an effort to save and salvage historic properties within the City. She remarked that as part of the process, property owners will receive a lot of information regarding available resources to assist them in maintaining their historic property.

Also appearing in favor of the ordinance was Mr. Jack Smith, 1105 Glade Street. Mr. Smith spoke on behalf of the West End Neighborhood Association which was in favor of this proposed ordinance.

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

Council Member Merschel expressed her appreciation to all those who worked so hard in the drafting of this ordinance. She stated that she has one question. Item “d” relates to the finding of an undue economic hardship, and the way that situation might be redressed. It indicates that there could be some property tax relief or loans/grants, but it also indicates that there could be a change in

applicable zoning regulations. Council Member Merschel asked Mr. Norby to clarify what this might do to help in the effort of saving older structures.

Mr. Norby gave an example of a deteriorating residential property in an area where its preservation as an office would preserve the integrity of the structure and would not create any economic hardship. He noted that as the Historic Resources Commission examines each situation, it would not have the authority to make the change in zoning. Any change in zoning would have to be petitioned and go through the established process for rezoning property. Mr. Norby advised that if Council has concerns about this point, the ordinance would not be impaired by its removal.

Council Member Merschel expressed her concern that this could create another avenue for demolition by neglect particularly on the peripheries of the City's historic neighborhoods. She proceeded to make a motion for adoption of the ordinance with the deletion of changes in applicable zoning regulations from the text.

Council Member Terry: Second.

Council Member Terry commented that he supported this ordinance because a lot of structures throughout the City will be able to be saved.

Council Member Clark asked how enforcement of this ordinance differs from the City's current code enforcement.

Mr. Norby responded that this process is authorized by General Statutes and is only applicable to locally designated historic districts. Its enforcement may carry a somewhat higher level of repair above and beyond what is required by the minimum housing code but which would keep the structure at an acceptable level for the historic district. In response to Council Member Robinson, Mr. Norby stated that the City currently has one overlay district—The West End—and

two historic districts—Old Salem and Bethabara. He commented that no inventory has been done of the number of structures to which this ordinance would apply.

Council Member Robinson asked if staff knows of the outcome of the court cases in Statesville.

Mr. Norby replied that those cases are still in litigation.

Council Member Robinson remarked that he could foresee a possibility for abuse through the enforcement of this ordinance, especially if there are hardship situations.

Council Member Clark expressed some misgivings regarding this ordinance and stated that he could not support it in this form.

Council Member Johnson made a motion to refer this item to the Community Development/Housing/General Government Committee for its September 13 meeting and then back to Council on September 19.

Council Member Merschel: Second.

Council Member Robinson asked staff to provide information regarding the disposition of the Statesville case.

Council Member Merschel requested a list of all properties that have individual historic designations.

The motion to refer this item to committee was unanimously carried.

7. PUBLIC HEARING AND RESOLUTION ADOPTING AN AMENDMENT TO THE NEW CENTURY PLAN FOR DOWNTOWN DEVELOPMENT. [*Planning Board recommends approval.*]

No one heard.

Council Member Merschel: Motion for adoption.

Council Member Malloy: Second.

Council Member Robinson expressed his concern that this would provide additional opportunities for public subsidies at the expense of taxpayers and he would not support this item.

Council Member Johnson remarked that there are quite a number of local residents who live on the periphery of downtown and they look forward to seeing improvements and having services offered to them.

Council Member Burke concurred with Council Member Johnson and noted that many of these citizens move in a very small area due to lack of transportation. Concentration of economic opportunities downtown bring jobs and encourage the tourism industry as well. She stated that at a convenient time, she would like for staff to share with the Council a list of private investors who have put their money into downtown as well.

Those voting in favor of the motion 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.

8. SECOND READING ON ORDINANCE ESTABLISHING A PUBLIC COMMENT PERIOD AT THE WINSTON-SALEM CITY COUNCIL'S REGULAR MEETING ON THE THIRD MONDAY OF EACH MONTH. *[Community Development/Housing/General Government Committee forwarded this item to the Council as amended with three in favor and one opposed. This item received a vote of five in favor and three opposed at the August 15 Council meeting. Lacking the required two-thirds majority vote on its first reading, it is placed on this agenda for a second reading.]*

Council Member Besse made a motion for adoption.

Council Member Clark: Second.

Council Member Johnson made a substitute motion for adoption of the ordinance with an amendment to schedule the public comment period at the beginning of the meeting.

Mayor Joines advised that since this is a second reading on an ordinance, a substitute motion would not be in order at this time.

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

9. MAYOR JOINES' RECOMMENDATIONS FOR APPOINTMENT/REAPPOINTMENTS:

a. HUMAN RELATIONS COMMISSION

Lisa A. Engelkins – *Appointment – Term Expiring December, 2007*

Council Member Clark: Motion for approval.

Council Member Burke: Second. Unanimous.

b. CITIZENS BUDGET ADVISORY COUNCIL

Ronald S. Bird – *Reappointment – Term Expiring June, 2008*

Odyseus Chamis – *Reappointment – Term Expiring June, 2008*

Council Member Merschel: Motion for approval.

Council Member Clark: Second. Unanimous.

10. CONSIDERATION OF SUMMARIES OF MINUTES:

a. APPROVAL OF SUMMARY OF MINUTES – *July 18, 2005.*

Council Member Merschel: Motion for approval.

Council Member Burke: Second. Unanimous.

b. APPROVAL OF SUMMARY OF MINUTES – *August 2, 2005.*

Council Member Merschel: Motion for approval.

Council Member Burke: Second. Unanimous.

11. PRESENTATION OF ANNUAL REPORT OF THE COMMUNITY APPEARANCE COMMISSION.

Appearing before the Council at this time was Mr. Shaun Siddon, 5250 Mountain View Road, as Chair of the Community Appearance Commission. Mr. Siddon presented a summary of the annual activities of the Commission, and specifically mentioned a number of events sponsored by the Commission such as Community Roots Day and the Biennial Awards Banquet.

Mayor Joines expressed his appreciation to Mr. Siddon and the other members of the Community Appearance Commission for their volunteer efforts.

At this time, Mayor Joines commented that the City has been working hard to prepare itself to receive displaced citizens from the Gulf Region of the country in the wake of Hurricane Katrina. He stated that after being contacted by the U.S. Conference of Mayors, City staff immediately responded in a number of ways including voluntarily manning a housing hotline and developing a dedicated website over the Labor Day Holiday. Additionally, a program called "Project Welcome" has been developed by a number of agencies, including the Red Cross and the Emergency Management Division, and represents a coordinated approach in providing needed services for hurricane victims. He advised that the Winston-Salem community has generously responded. The Housing Hotline has signed up over 400 units of private housing to be made available for six to twelve months as needed. Local hotels have made 200 rooms available for temporary housing, and many organizations and churches have called offering to sponsor individuals and families. Mayor Joines stated that the City of Winston-Salem is prepared to do its part to help in recovering from this national disaster.

Council Member Burke, Chair of the Public Safety Committee, also expressed her thanks to City staff for keeping Council members apprised of what is occurring. She stated that she was glad to know that people are offering private property for temporary housing, and she wanted to assure the citizens that these housing units will meet the City's housing codes and will not be substandard. Council Member Burke stated that she has also had a conversation with the City Manager about the City of Winston-Salem's state of preparedness.

Mr. Stuart advised that staff is planning to brief the Public Safety Committee next Monday on the City's emergency preparedness as well as provide a status report of the recovery efforts in the Gulf.

Mr. Mel Sadler, Emergency Management Director, informed the Council that his department has been notified that North Carolina has been designated as a secondary site to receive as many as 200 displaced individuals for a period of 30 to 90 days. He stated that until individuals are relocated to other properties, the Coliseum Annex will be used as a temporary shelter.

Council Member Johnson pointed out that there are already individuals who have arrived in Winston-Salem on their own, and efforts are underway to provide them with needed information and services as well.

Council Member Robinson asked that the report to the Public Safety Committee also include plans for evacuating the large medical community in Winston-Salem.

In response to Council Member Malloy, Mr. Stuart stated that last week, the City was advised that the two major pipelines that serve North Carolina from Texas were both out of commission as a result of hurricane damage. He stated that he immediately imposed a rather severe limit on gasoline consumption to make sure that the City would have sufficient amounts of fuel for

public safety vehicles and sanitation operations and non-emergency services were temporarily halted. Mr. Stuart remarked that the City has now been notified that the pipelines are back in operation and the City is now able to receive its normal supply. Therefore, the restrictions on fuel consumption have eased, but a series of on-going conservation measures have been implemented while costs remain high.

Council Member Besse commented that he was glad to see the community mobilized to accept displaced citizens, but he noted that many will require services on a long-term basis. In an effort to mitigate some of the sense of dislocation, Council Member Besse suggested that elected officials be in contact with community organizations and other groups so they will be in a position to provide good information regarding available services and rapid responses to their requests. He asked that the Assistant City Managers be in touch with Council members as displaced persons are relocated.

Council Member Terry asked Mr. Stuart to provide information at next week's Finance Committee meeting regarding the advance purchase of gasoline by the City.

Council Member Johnson commented that welcome packets are being assembled and will be provided to families coming into Winston-Salem. She requested staff to take a supply of informational door hangers to the Red Cross to be included.

Council Member Johnson stated that the community will be involved in "Step Up Forsyth" on Saturday, September 10, but she also wanted to share that former Wake Forest University basketball player Chris Paul has "adopted" the Rupert Bell Recreation Center and site for a basketball clinic. The basketball courts there have been resurfaced at his expense and he will be present from 2:00 to 4:00 p.m. on Saturday.

Council Member Johnson also announced that on Friday, September 9, the North Carolina Housing Foundation will be dedicating a site at Third and Dunleith that has been specifically designed for physically challenged individuals. The dedication will be held at 3:00 p.m. and several of the units will be named for outstanding community residents who have supported the work at University Place.

Council Member Johnson stated that the City has lost one of its former citizens, Mr. Monta Ruth, who was killed in Iraq. She asked the community to be in prayer for this family.

Council Member Besse remarked that there was a recent fire at Salem Lake which destroyed the Warden's office. He asked staff to provide a report to the Community Development/Housing/General Government Committee next week on how quickly that facility can be reopened and service restored.

ADJOURNMENT: 9:49 p.m.