

D-27034

Summary of Minutes

January 17, 2006

A Regular Meeting of the Winston-Salem City Council was held on Tuesday, January 17, 2006 at 7:30 p.m. in the Council Chamber at City Hall, Mayor Allen Joines presiding and the following members present:

Members Present:	Molly Leight Robert C. Clark Dan Besse Joycelyn V. Johnson	Vivian H. Burke Nelson L. Malloy, Jr. Wanda Merschel Evelyn A. Terry
Secretaries:	Renée P. Henderson, City Secretary; and Paige Deal, Recording Secretary	
Sergeants at Arms:	Lieutenant Connie Southern and Lieutenant Bill Cobb	
Invocation:	Reverend Steve Gerhard from the Lutheran Church of the Epiphany	

Mrs. Henderson read the following resolution:

**RESOLUTION RECOGNIZING THE COMBAT CHALLENGE WORLD CHAMPIONS FROM THE WINSON-SALEM FIRE DEPARTMENT**

Council Member Burke: Motion for adoption.

Council Member Malloy: Second. Unanimous.

Council Member Burke presented a framed copy of the resolution to Fire Chief John Gist and individual resolutions to Duane Cheek, Ricky Brown, Kelvin Astrop, and John Pennington, all from the Winston-Salem Fire Department, as well as Robert Klingersmith from the Lewisville Volunteer Fire Department.

At this time, Mayor Joines recognized Council Member Johnson for a presentation.

Council Member Johnson presented a plaque to the Information Systems Department of the City as a Top Ten City from the Center for Digital Government. She stated that this was announced at the National League of Cities Congress of Cities in Charlotte in December.

Mr. Tom Kureczka accepted the plaque on behalf of the Information Systems Department.

Mayor Joines stated that the Council would now consider the Consent Agenda. He asked if anyone wished to remove any items for discussion. Council Member Malloy asked for the removal of C-5. No other items were removed.

#### CONSENT AGENDA

All items listed below were enacted by one motion for approval or adoption, as appropriate, which motion is as follows:

Council Member Burke made a motion that these items be approved/adopted at this meeting.

The motion was duly seconded by Council Member Merschel and unanimously carried.

1. CONSIDERATION OF ITEMS RELATING TO THE SALE/LEASE OF PROPERTY:  
*[Recommended by Finance Committee.]*
  - a. RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED PROPERTY UNDER THE PROVISIONS OF N.C.G.S. 160A-269 – *521 N. Liberty Street.*
  - b. RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED PROPERTY UNDER THE PROVISIONS OF N.C.G.S. 160A-269 – *Lot 303B of Block 0202 located on Martin Luther King, Jr. Drive.*
  - c. RESOLUTION AUTHORIZING THE SALE OF CERTAIN CITY-OWNED PROPERTY UNDER THE PROVISIONS OF N.C.G.S. 160A-269 – *Lot 304B of Block 0202 located on Martin Luther King, Jr. Drive.*

- d. RESOLUTION AUTHORIZING THE DISPOSITION OF PROPERTY LOCATED AT 5405 WOODCLIFF DRIVE THROUGH PUBLIC AUCTION AS PERMITTED BY N.C.G.S. 160A-270 AND VOIDING RESOLUTION ADOPTED SEPTEMBER 19, 2005.
  - e. RESOLUTION AUTHORIZING AN EXTENSION OF LEASE OPTION WITH NOBLE INVESTMENTS FOR UP TO THREE FLOORS OF THE CHERRY/MARSHALL PARKING DECK.
2. CONSIDERATION OF ITEMS RELATING TO THE PURCHASE OF PROPERTY FOR A PUBLIC SAFETY EVIDENCE STORAGE AND TRAINING FACILITY:  
*[Recommended by Finance and Public Safety Committees.]*
- a. RESOLUTION AUTHORIZING THE PURCHASE OF PROPERTY ON THE WEST SIDE OF PATTERSON AVENUE FOR A PUBLIC SAFETY EVIDENCE STORAGE AND TRAINING FACILITY.
  - b. ORDINANCES AMENDING THE ANNUAL APPROPRIATION AND TAX LEVY AND PROJECT BUDGET ORDINANCES FOR THE CITY OF WINSTON-SALEM FOR FY 2005-2006.
3. RESOLUTION APPROVING A LOAN TO LIBERTY COMMUNITY DEVELOPMENT CORPORATION - \$150,000 for property acquisition for retail development at 1726 N. Liberty Street. *[Recommended by Finance Committee.]*
4. ORDINANCE AMENDING SECTION 42-122(f) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS ON CERTAIN CITY STREETS – *Bates Drive, and Neighborhood Limits of Gladwyn Drive and Westwin Drive.* *[Recommended by Public Safety Committee.]*
6. ORDINANCE RENAMING “OLDTOWN CLUB DRIVE” TO “OLD TOWN CLUB ROAD.” *[Recommended by Public Works Committee.]*
7. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A REVISED MEMORANDUM OF UNDERSTANDING FOR THE WINSTON-SALEM URBAN AREA METROPOLITAN PLANNING ORGANIZATION – *Addition of the Town of Wallburg as a member organization.* *[Recommended by Public Works Committee.]*
8. RESOLUTION APPROVING A CONTRACT WITH WILBUR SMITH ASSOCIATES FOR TRANSPORTATION PLANNING AND TRAFFIC ENGINEERING SERVICES FOR THE FORUM PARKWAY CONNECTOR IN THE TOWN OF RURAL HALL. *[Recommended by Public Works Committee.]*

9. CONSIDERATION OF ITEMS RELATING TO A FEMA GRANT: *[Recommended by Finance and Public Safety Committees.]*
  - a. RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND THE DEPARTMENT OF HOMELAND SECURITY FOR ADDITIONAL STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER).
  - b. ORDINANCES AMENDING THE ANNUAL APPROPRIATION AND TAX LEVY AND PROJECT BUDGET ORDINANCES FOR THE CITY OF WINSTON-SALEM FOR FY 2005-06.
10. ORDINANCES AMENDING THE ANNUAL APPROPRIATION AND TAX LEVY AND PROJECT BUDGET ORDINANCES FOR THE CITY OF WINSTON-SALEM FOR FY 2005-06 TO APPROPRIATE ADDITIONAL TRANSPORTATION PLANNING FUNDS. *[Recommended by Finance Committee.]*
11. CONSIDERATION OF ITEMS RELATING TO REQUESTS FOR DECORATIVE STREETLIGHTING: *[Recommended by Public Works Committee.]*
  - a. RESOLUTION APPROVING AN AGREEMENT WITH ASHETON GROVE HOMEOWNERS ASSOCIATION, INC. TO INSTALL AND MAINTAIN A DECORATIVE STREETLIGHTING SYSTEM.
  - b. RESOLUTION APPROVING AN AGREEMENT WITH VERNON FARMS HOMEOWNERS ASSOCIATION, INC. TO INSTALL AND MAINTAIN A DECORATIVE STREETLIGHTING SYSTEM.
  - c. RESOLUTION APPROVING AN AGREEMENT WITH NORTHERN QUARTERS HOMEOWNERS ASSOCIATION, INC. TO INSTALL AND MAINTAIN A DECORATIVE STREETLIGHTING SYSTEM.
12. SECOND READING ON ORDINANCE TRANSFERRING THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY OF UNIQUE LIMOUSINE FOR THE OPERATION OF EIGHT LIMOUSINES IN THE CITY OF WINSTON-SALEM – *Transfer of Ownership from Chester L. Branson to Mike Dicello. [Recommended by Public Safety Committee.]*
13. CONSIDERATION OF SUMMARIES OF MINUTES:
  - a. APPROVAL OF SUMMARY OF MINUTES – *December 19, 2005.*
  - b. APPROVAL OF SUMMARY OF MINUTES – *January 3, 2006.*

5. ORDINANCE AMENDING SECTION 42-97 OF THE CITY CODE RELATING TO WEIGHT LIMITATIONS ON THRU TRAFFIC ON CERTAIN CITY STREETS – *Cherry Street between Germanton Road and University Parkway. [Recommended by Public Safety Committee.]*

Council Member Malloy commented that truck traffic is a serious problem on this section of Cherry Street, and he requested that the Police Department monitor the area very closely to make sure the ordinance is enforced. He mentioned also that there was a problem on Indiana Avenue from Cherry Street to Home Road and he would like to see patrol cars in the area at least a couple of times a month to deter potential violators.

Council Member Malloy: Motion for adoption.

Council Member Burke: Second. Unanimous.

#### GENERAL AGENDA

1. REQUEST OF SENIOR RESIDENCES, INC. TO MODIFY CONDITIONS FOR SALE OF CITY-OWNED LAND – *48.14 acres within Winston Lake Park. [Finance Committee forwarded this item to the Council without a recommendation pending revisions and additional information.]*

Mr. Derwick Paige, Assistant City Manager, stated that he was requested by the Finance Committee to contact the local Department of Housing and Urban Development (HUD) office for additional clarification on the review process for this proposed project. He pointed out that the resolution has attached conditions confirmed by the HUD office: first, an invitation letter has to be issued by HUD; second, that an early start letter has to be issued; and third, that a \$74,000 bond must

be established in case the project does not move forward in order to allow the land to be restored to its original condition as much as possible, including the removal of any footings placed in the ground.

Council Member Clark stated that he knew timing was a critical part of this project. He asked if Senior Residences, Inc. (SRI) will receive the invitation letter and early start letter in time to proceed.

Mr. Paige responded that from his conversations with representatives of HUD, an invitation could be forthcoming with the next two weeks. The early start letter depends upon when SRI submits an application. He advised that HUD has indicated that at this point, everything looks favorable for this project.

Attorney Ron Matamoros, 110 S. Stratford Road, appeared on behalf of SRI. He stated that his clients accept all additional conditions as provided by staff.

Mayor Joines stated that Council Member Burke has requested to be excused from voting on this item due to her membership in Alpha Kappa Alpha, the sorority who is sponsoring this project.

Council Member Johnson made a motion to excuse Council Member Burke. The motion was duly seconded by Council Member Clark. Those voting in favor of the motion were Council Members Clark, Besse, Johnson, Malloy, Merschel, and Terry. Opposed: Council Member Leight. The motion to excuse Council Member Burke from voting on this item was carried on a vote of six in favor and one opposed.

Council Member Johnson made a motion for adoption of the resolution.

Council Member Malloy: Second.

Former Council Member Virginia K. Newell, who asked to be heard, commented that she

was very supportive of this project, but she has some questions regarding the financing, specifically a pro forma.

Mayor Joines responded that Mr. Paige, Mr. Matamoros, and others from SRI would be glad to discuss this matter with Mrs. Newell.

Mayor Joines called for the vote on the motion. Those voting in favor of the motion were Council Members Clark, Johnson, Malloy, Merschel, and Terry. Opposed: Council Members Leight and Besse. Excused from voting: Council Member Burke. The motion carried on a vote of five in favor, two opposed, and one excused from voting.

2. **ORDINANCE AMENDING ARTICLE I OF CHAPTER 46 OF THE CITY CODE REGARDING NOISE PROHIBITION.** *[Public Works Committee forwarded amended item to Council with three in favor, none opposed, one abstaining.]*

Mayor Joines stated that there were a number of citizens who signed up to speak during the public comment period regarding the amendment to the City Code relating to noise. He stated that, without objection, the Council would hear from these citizens at this time prior to any Council action on the item.

Mr. Mark Bacon, General Manager of Republic Waste, 2875 Lowery Street, expressed several concerns regarding this proposed ordinance amendment. He stated that his company's trucks try to get dumpsters emptied at times when there is not much traffic on the road and the trucks can access dumpsters more easily. He stated there would be a number of safety concerns if the dumpsters could not be emptied during non-peak hours. In addition, if collection is done after the landfill closes, there would be no location to dump the trucks. Mr. Bacon informed the Council that he and his company have always tried to be responsive when they received complaints, but he has not received any calls regarding this being a nuisance for neighborhoods.

Council Members Johnson and Besse mentioned that they are aware of specific complaints and concerns and will be sharing them with Mr. Bacon.

Speaking next was Mr. George Bryan, 813 West End Boulevard. Mr. Bryan stated that he was speaking on behalf of the West End Association and the Winston-Salem Neighborhood Alliance. Mr. Bryan commented that this issue is of great concern throughout the city. He cited personal examples when he heard commercial dumpsters being emptied at 4:00 and 5:00 a.m. As infill development occurs, it is important to respect one another's privacy and quiet enjoyment of home.

Mr. Roland Joyner, District Operations Manager for Waste Management, 3301 N. Glenn Avenue, appeared before the Council at this time and stated that safety and customer service are his company's highest priorities. He remarked that he did an analysis of customer complaints received over the past year, and he found no documented complaints regarding noise. However, if there are concerns which are just not being reported to him, he assured the Council that he would do everything possible to address them, including adjusting the routing of trucks. Mr. Joyner stated that he did not think it would benefit anyone to have large garbage trucks on the roads during peak hours and trying to empty dumpsters in already crowded parking lots.

Ms. Gayle Anderson, President of the Winston-Salem Chamber of Commerce, 601 West Fourth Street, stated that she has heard from a number of small businesses who have expressed concerns about what effect this ordinance will have upon them and their customers if garbage haulers are emptying dumpsters while customers are present. She requested that the Council remand this proposed ordinance to the Public Works Committee and allow interested parties to come together and try and work out some of these concerns.

Mr. Robert Vorsteg, 3620 Marlowe Avenue, stated that this ordinance will go a long way in addressing a particular problem. He noted that this is nothing radical, and advised that Charlotte actually has a more restrictive ordinance regulating noise of this nature. He requested that the Council support this.

Speaking next was Ms. Terrie Masten, 1149 S. Hawthorne Road. She stated that she was the marketing manager for Waste Management, but she finds herself more disturbed at all hours by sirens from emergency vehicles and loud music from cars. She commented that adopting this ordinance unfairly singles out one industry.

Ms. Judy Pappas, President of the Holly Avenue Neighborhood Association, spoke in favor of the ordinance. She stated that she owns property at 711 North First Street, and garbage collection during the late night/early morning hours is extremely loud and disrupting.

Council Member Johnson remarked that the Public Works Committee has discussed this issue extensively at three or more meetings, and has worked through a number of suggestions to arrive at the current version. She made a motion for adoption of the ordinance as presented.

Council Member Besse: Second.

Council Member Clark asked for the operating hours of the landfill.

Mr. Greg Turner, Assistant City Manager/Public Works, responded that the landfill is open 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 4:00 p.m. on Saturday.

Council Member Clark asked if those hours could be extended.

Mr. Turner responded that this may be possible, and that the matter could be taken to the Utility Commission.

Council Member Clark commented that he realizes that dumpster collection noise is more

disruptive in some neighborhoods than others, and while he understands the concerns expressed this evening, he has only received one call concerning a problem. He stated that he does have a major concern regarding safety with very large trucks using narrow alleyways, backing out into heavy traffic, and maneuvering around parked cars in restaurant parking lots. Council Member Clark expressed his opinion that this would be sacrificing safety for the sake of convenience.

Council Member Besse remarked that he is aware of three recurring location problems in the Southwest Ward—Stratford Road and Mission Road, Stratford Road and Westview Road, and Country Club Road and Gordon Drive. He stated that he has also received sporadic complaints regarding other locations, and after the article in the Winston-Salem Journal over the weekend, he has been contacted by a number of citizens who confirmed that they also have a problem with disruptive garbage collection. Council Member Besse commented that this matter has been discussed by the Public Works Committee for several months and the amendment before Council at this time is actually a compromise proposal, which he considers reasonable.

Council Member Burke asked if there was much citizen participation at the Public Works Committee meetings when this matter was discussed.

Council Member Johnson replied that several residents attended the meetings as well as representatives from businesses which operate outside machinery around the clock.

Council Member Burke noted that it sometimes occurs that people wait until the very last opportunity to communicate their concerns to the Council. This unfortunately creates an undue delay in addressing genuine problems. She stated that she is very concerned about the safety of the public and she recalled an incident several years ago on Deacon Boulevard which involved a private vehicle and a garbage truck. Some dumpsters are located where it can be very difficult for them to

be serviced unless it is during non-peak hours. She requested that the situation be monitored very carefully and perhaps have the matter brought back in a few months for a report on how it is working and receive feedback from citizens and affected businesses. Council Member Burke stated that she receives far more complaints about barking dogs than disruption from garbage collection.

Council Member Merschel stated that she understands the restrictions that will be placed on some vendors if this ordinance passes. She suggested that these companies be in touch with Mr. Turner to discuss obstacles such as landfill hours, access via narrow drives, etc. and how those obstacles may be overcome through alternative measures. She stated that garbage trucks are very large, but so are many vehicles which access neighborhoods all the time.

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

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

Due to the lack of a two-thirds majority vote on its first reading, this ordinance will be placed on the February 6, 2006 agenda for a second reading.

3. MAYOR JOINES' RECOMMENDATIONS FOR COUNCIL MEMBER APPOINTMENTS TO BOARDS AND COMMISSIONS:

a. EMERGENCY MANAGEMENT ADVISORY COUNCIL

Council Member Molly Leight

Council Member Burke: Motion for approval.

Council Member Merschel: Second. Unanimous.

b. POLICE OFFICERS' RETIREMENT COMMISSION

Council Member Robert C. Clark

Council Member Johnson: Motion for approval.

Council Member Burke: Second. Unanimous.

c. TRANSPORTATION ADVISORY COMMITTEE

Council Member Evelyn A. Terry  
Council Member Robert C. Clark (alternate)

Council Member Burke: Motion for approval.

Council Member Merschel: Second. Unanimous.

4. MAYOR JOINES' RECOMMENDATIONS FOR REAPPOINTMENTS:

a. CITIZENS BUDGET ADVISORY COUNCIL

Jack D. Fleer – *Term Expiring December, 2008*

Council Member Burke: Motion for approval.

Council Member Merschel: Second. Unanimous.

b. EMERGENCY MANAGEMENT ADVISORY COUNCIL

Tommy Thompson – *Term Expiring September, 2008*  
Raphael O. Black – *Term Expiring September, 2008*

Council Member Burke: Motion for approval.

Council Member Johnson: Second. Unanimous.

c. HUMAN RELATIONS COMMISSION

Juan Suarez – *Term Expiring September, 2008*

Council Member Johnson: Motion for approval.

Council Member Merschel: Second. Unanimous.

d. CABLE REVIEW COMMITTEE

W. Shedrick Adams – *Term Expiring October, 2008*

Council Member Johnson: Motion for approval.

Council Member Merschel: Second. Unanimous.

e. LOAN COMMITTEE

Shannon D. Gilreath – *Term Expiring December, 2008*

Council Member Burke: Motion for approval.

Council Member Malloy: Second. Unanimous.

f. COALITION FOR DRUG ABUSE PREVENTION

Alvin E. Damon – *Term Expiring August, 2008*

Sophia G. Feaster – *Term Expiring September, 2008*

M. Delores Crosby-Edwards – *Term Expiring August, 2008*

James Fulwood – *Term Expiring August, 2008*

Council Member Burke: Motion for approval.

Council Member Johnson: Second. Unanimous.

5. PRESENTATION OF THE FY 2005 ANNUAL FINANCIAL REPORT OF THE CITY OF WINSTON-SALEM.

Mrs. Denise Bell, Chief Financial Officer, made the presentation to the Council. She advised that 2005 was an excellent year for the City in many ways, but especially in economic development. She reported that the City has retained its AAA bond rating by all three rating agencies, and pointed out the total of the City's net assets at \$1.3 billion, total liabilities of \$.5 billion, and a year-end net worth of \$741 million. Mrs. Bell explained that the City revenues for the year total \$313 million and expenses were \$270 million, a net increase of \$44 million. She advised that the City's bonded debt and contractual obligations at the end of 2005 was \$540 million. Mrs. Bell stated that the report goes into much greater detail and she would be glad to answer any questions.

Council Member Merschel thanked Mrs. Bell and her staff for an outstanding job.

6. CONSIDERATION OF DATE FOR MAYOR AND COUNCIL STRATEGIC PLANNING SESSION – *January 30, 2006.*

Mayor Joines stated that the strategic planning session has been scheduled for Monday, January 30, 2006, in the Deacon Room at the Coliseum. He asked for a motion for approval.

Council Member Clark: Motion for approval of date for strategic planning session.

Council Member Terry: Second. Unanimous.

Council Member Johnson asked if this meeting will be open to the public.

Mayor Joines responded yes.

10. PUBLIC COMMENT PERIOD.

*NOTE: Verbatim comments of speakers during the Public Comment Period and subsequent staff responses are kept under separate cover and are available in the Office of the City Secretary during regular business hours.*

Mr. John Hopkins, 1635 Bright Leaf Road, Pfafftown, addressed the Council in opposition to

involuntary annexation. He questioned whether the City's budget can support services to the newly annexed areas, and he expressed particular concerns regarding public safety.

Mr. Ghali Hasan, 4945 Tutelo Trail, addressed the Council regarding his landfill on Barbara Jane Avenue. He stated that a lot of misinformation has been spread and he would like the Council to schedule a public hearing so that all of the facts of the situation will be out in the open. He commented that he is in a genuine bind if this situation is not resolved.

Mayor Joines requested that Mr. Hasan put his concerns in writing and send them to his office.

Mr. Charles Humphrey, 3525 Hemlock Drive, spoke at this time. He stated that he is also concerned about noise, but it seemed to him that some parts of the City receive responses to their concerns and others do not. He remarked that he was not treated well by City staff or elected officials.

Mayor Joines asked if anyone else wished to speak. Hearing no one, he declared the Public Comment Period closed.

ADJOURNMENT: 8:46 p.m.