

D-27145

Summary of Minutes

October 2, 2006

A Regular Meeting of the Winston-Salem City Council was held on Monday, October 2, 2006 at 7:30 p.m. in the Council Chamber at City Hall, Mayor Allen Joines presiding and the following members present:

Council 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 L. Deal,
Recording Secretary

Invocation: Reverend Ty Talton of Ardmore Baptist Church

Sergeant at Arms: Lieutenant David Kiger

1. PUBLIC HEARING AND RESOLUTION ORDERING THE CLOSING OF A PORTION OF AN ALLEY OFF OF VINTAGE AVENUE IN THE SOUTH WARD (Council Member Leight) - Petition of Julie Ann Palm. [Recommended by Public Works Committee.]

Council Member Leight commented that some neighbors have expressed concerns about this proposed closure and she would like for it to be remanded to the Public Works Committee for review at its meeting scheduled for Tuesday, October 10. She invited interested citizens to attend that meeting.

Council Member Leight: Motion to remand this item to the Public Works Committee.

Council Member Merschel: Second. Unanimous.

2. PUBLIC HEARING ON ZONING PETITION OF J. NORMAN AND ADA WILLARD FROM RS-9 TO LI-S (Offices, Miscellaneous; Professional Office; Warehousing; Building Contractor, General; Building Contractor, Heavy; Transmission Tower; and Broadcast Studio): Property located on the west side of Cole Road north of US Highway 311 - Containing approximately 7.35 acres located in the SOUTHEAST WARD (Council Member Terry) - Zoning Docket W-2875. [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 Terry: Motion for approval.

Council Member Burke: Second. Unanimous.

3. PUBLIC HEARING ON ZONING PETITION OF WAKE FOREST UNIVERSITY DEVELOPMENT FROM RS-9 AND RM-8-S TO RM-8-S (Residential Building, Multifamily; Residential Building, Townhouse; and Residential Building, Duplex): Property located on the southwest corner of Old Salisbury Road and West Clemmons Road - Containing approximately 1.05 acres located in the SOUTH WARD (Council Member Leight) - Zoning Docket W-2876. [Planning Board recommends approval of petition and site plan with staff recommendations.]

No one heard.

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Council Member Leight commented that this proposal would provide a nice infill development for this neighborhood.

Council Member Leight: Motion for approval.

Council Member Burke: Second. Unanimous.

4. PUBLIC HEARING ON ZONING PETITION OF SENIOR RESIDENCES, INC. FROM RM-8-S (Life Care Community) TO RM-8-S (Life Care Community - SITE PLAN AMENDMENT): Property located on the northeast side of Waterworks Road, west of Old Greensboro Road - Containing approximately 48.14 acres located in the EAST WARD (Council Member Johnson) - Zoning Docket W-2877. [Planning Board recommends approval of petition and site plan with staff recommendations.]

Mr. Orville Player introduced himself as an architect with the project and offered to respond to questions.

Hearing no one else who wished to speak, Mayor Joines declared the public hearing closed.

In response to Council Member Johnson, Mr. Paul Norby, City/County Planning Director, described the proposed site plan amendment in some detail. There are two access points proposed on Waterworks Road and one access point on Winston Lake Park Road. The former site plan had 85 congregate care units, 80 nursing home beds, 106 multi-family units and 11 single-family units. The proposed site plan has 100 congregate care units, 50 nursing home beds, 170 multi-family units, and 55 single-family units. Mr. Norby pointed out the orientation of the units, and noted that the revised site plan preserves a good amount of open space where there are topographic issues involved as well as the stream. He advised that there is also a 50-foot area along Waterworks Road

that would remain as a buffer area before any construction of the housing units begins. Although the revised site plan does increase traffic projections, the City's DOT determined that it would not exceed roadway capacity. This site plan amendment was recommended by the Planning Board.

Council Member Johnson remarked that this development will be an asset to this area.

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Council Member Johnson: Motion for approval.

Council Member Malloy Jr.: Second. Unanimous.

Council Member Burke advised that she is a member of the National Alpha Kappa Alpha organization, but she is not involved with this project. She asked the City Attorney if there was any conflict of interest on her part.

City Attorney Ron Seeber advised that there was no technical conflict.

Council Member Besse commented that the items in the site plan relating to the preservation of open space and stream buffers should be considered significant to the development of this project.

5. PUBLIC HEARING ON ZONING PETITION OF PAUL STEWART MCGILL, LOY BARBRE MCGILL, AND THE NC STATE HIGHWAY COMMISSION FROM RS-12 AND LO-S TO LO-S (All Uses Permitted in the LO District): Property located on the east side of Silas Creek Parkway, south of Country Club Road - Containing approximately 0.47 acres located in the SOUTHWEST WARD (Council Member Besse) - Zoning Docket W-2885. [Planning Board recommends approval of petition and site plan with staff recommendations.]

No one heard.

Council Member Besse remarked that this was a technical correction of a mapping error.

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Council Member Besse: Motion for approval.

Council Member Burke: Second. Unanimous.

6. PUBLIC HEARING ON ZONING PETITION OF LUTER ASSOCIATES FROM GB TO LI: Property located on the south side of North Point Boulevard, west of Cherry Street - Containing approximately 1.48 acres located in the NORTH WARD (Council Member Malloy) - Zoning Docket W-2886. [Planning Board recommends approval of petition.]

No one heard.

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Council Member Malloy: Motion for approval.

Council Member Merschel: Second. Unanimous.

7. PUBLIC HEARING ON ZONING PETITION OF TRISTONE COMMUNITY BANK FOR PROPERTY OWNED BY JONESTOWN PROPERTIES, LLC FROM LB-S TO LB-S (Banking and Financial Services - SITE PLAN AMENDMENT): Property located on the southwest corner of Jonestown Road and Eastwin Drive - Containing approximately 2.45 acres located in the WEST WARD (Council Member Clark) - Zoning Docket W-2887. [Planning Board recommends approval of petition and site plan with staff recommendations.]

No one heard.

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Council Member Clark: Motion for approval.

Council Member Malloy: Second. Unanimous.

8. PUBLIC HEARING ON ZONING PETITION OF SOUTHPARK HOMES, LLC FROM RM-12-S TO RM-12-S (Multiple Residential Uses - SITE PLAN AMENDMENT - removal of a barn and silo): Property located on the north side of Southpark Boulevard, east of Old Salisbury Road - Containing approximately 0.65 acres located in the SOUTH WARD (Council Member Leight) - Zoning Docket W-2888. [Planning Board recommends approval of petition and site plan with staff recommendations.]

No one heard.

Council Member Leight stated that when this property was originally rezoned, a condition was placed on the site plan to retain the barn and silo. Unfortunately, there was nothing put in writing regarding the maintenance of those structures. They are now in a condition where it would be dangerous to leave them. Council Member Leight remarked that she hoped that future similar conditions would be more carefully worded to prevent this from happening again.

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Council Member Leight: Motion for approval.

Council Member Burke: Second. Unanimous.

9. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF GRACE H. CALLOWAY AND SADIE H. HENNING FROM RS-9 TO LO-S (Funeral Home; Medical and Surgical Offices; Non-Store Retailer; Offices, Miscellaneous; Professional Office; and Adult Day Care Center): Property located on the west side of Peace Haven Road south of Robinhood Road - Containing approximately 1.45 acres located in the WEST WARD (Council Member Clark) - Zoning Docket W-2843. [Planning Board recommends approval of petition and site plan with staff recommendations. This item was continued from the August 7, 2006 Council meeting.]

Council Member Clark: Motion for 30-day continuance.

Council Member Johnson: Second. Unanimous.

Council Member Clark stated that he knows very well that this has been a frustrating situation. Initially, the property was intended to be developed as a bank, but that plan changed to an office building. The neighbors, unfortunately, were under the impression that it was still proposed as a bank. Council Member Clark commented that he has met with the developers and has asked them to scale back their plan for an office building and meet with the neighborhood to clear up any remaining confusion. He stated that he has not yet seen any revised site plan, but it was his intention for this matter to be resolved one way or the other at the November zoning meeting of the Council.

10. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF WINDSOR DEVELOPMENT GROUP, LLC FOR PROPERTY OWNED BY HOPE PRESBYTERIAN CHURCH, INC., CONRAD L. VESTAL, AND ELIZABETH VESTAL FROM RS-9 TO GO-S (Banking and Financial Services; and Professional Office): Property located on the west side of Peace Haven Road, across from Whitaker Road - Containing approximately 2.09 acres located in the WEST WARD (Council Member Clark) - Zoning Docket W-2862. [Planning Board recommends denial of petition, but approval of the site plan with staff recommendations. This item was continued from the August 7, 2006 Council meeting.]

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SUFFICIENT PROTEST PETITION

Council Member Clark stated that it is his understanding that a revised site plan is being developed and the petitioners have requested that this matter be remanded to the Planning Board.

Council Member Clark: Motion to remand this petition to the Planning Board with a complete review of both Planning Staff and Planning Board, and a re-posting of the zoning sign on the property.

Council Member Johnson: Second.

Council Member Merschel stated that due to the ward realignment action that is anticipated later on tonight's agenda, this site will become part of the Northwest Ward. She remarked that she understood the amount of time Council Member Clark has devoted to this matter, and she noted the fact that the neighborhood has been consistent in its concerns. She therefore would prefer to proceed with the public hearing and not delay this petition any longer.

Mayor Joines asked Council Member Merschel if she wanted to offer a substitute motion.

Council Member Merschel: Substitute motion to proceed with the public hearing on this petition.

Council Member Terry: Second. Unanimous.

Council Member Clark expressed a concern that a representative from the developer was not present at tonight's meeting in anticipation that this petition would be remanded, and that perhaps holding the public hearing would be unfair.

Council Member Merschel noted that unfortunately, the developer's absence tonight has been observed by the neighborhood as typical behavior with regard to their concerns.

Mayor Joines asked if anyone wished to speak in favor of the petition. Hearing no one, he called upon those in opposition to come forward and be recognized.

Mr. Paul Ferencz, 3224 Polo Road, spoke in opposition to the petition. He stated that he and his neighbors were promised that with the development of Whitaker Square, that there would be no need for further commercial encroachment into residential areas. He commented that while the residents welcome the church as a neighbor, there is strong opposition to the church selling off additional land for speculation. Mr. Ferencz stated that approval of this petition would add an unmanageable amount of traffic onto this already overburdened road, and he requested that the Council deny the petition.

Mayor Joines asked if anyone else wished to speak. Hearing no one, he declared the public hearing closed and recognized Mr. Norby for the recommendation of the Planning Board.

Mr. Norby presented the recommendation of the Planning Board which was for denial of the petition. He described the proposed site plan and noted that traffic on Peace Haven Road at this location is well over capacity with significant traffic delays. He stated that a more recent traffic study was conducted which indicated a reduction post-

development than what was originally estimated, but traffic counts would still exceed what the existing road and intersection could easily handle.

Council Member Besse asked Mr. Norby if he has seen a revised site plan from the petitioner.

Mr. Norby replied that he had not; however, he is advised by staff that the major change was with regard to the revised traffic study.

Council Member Clark acknowledged his frustration that this petition has been delayed over and over. He reiterated his concern that the petitioner was not present this evening, but stated that he would defer to Council Member Merschel for her recommendation.

Council Member Merschel remarked that she has followed this petition closely and has been kept updated by Council Member Clark.

Council Member Merschel: Motion for denial of petition.

Council Member Clark: Second. Unanimous.

11. RESOLUTION REALIGNING WARD BOUNDARIES WITHIN THE CITY AND ASSIGNING TO WARDS AREAS ANNEXED EFFECTIVE SEPTEMBER 30, 2006.

Mayor Joines recognized Mr. Norby for a brief presentation.

Mr. Norby explained that the recently annexed areas need to be assigned to wards, and rather than temporarily assigning annexation areas to existing wards and having to come back later with a ward realignment plan prior to the 2009 municipal elections, staff prepared a proposed ward realignment plan for consideration at this time. Mr. Norby noted that the last ward realignment study was five years ago. He explained the mechanics of how the proposed lines were drawn, utilizing data from the 2000 Census,

updated counts of housing units, tax records, and building/demolition permit information. The ward boundaries were then redrawn in order to achieve an equitable distribution of population while trying to maintain the general location of existing ward lines, and to keep existing Council Members in their same home ward. Mr. Norby stated that the proposal before Council this evening achieves a population deviation of less than one percent. He pointed out the map which shows the realigned individual wards and the tables which give the corresponding estimated demographic composition of each ward under this proposal. More up-to-date data on population, persons per dwelling unit, and racial/ethnic composition will not be available until after the 2010 Census is undertaken.

Council Member Clark: Motion for approval.

Council Member Merschel: Second. Unanimous.

Council Member Johnson remarked that she felt that timing would have been right for designating a 9th ward. She asked how citizens will be made aware of the ward realignment which may shift some citizens from one ward to another.

City Manager Lee Garrity responded that since there are significant changes, postcards will be sent to each household in the city, advising them of their ward and Council member who represents them.

Council Member Johnson stated that once those postcards are sent out, she would like to take the opportunity to meet with her constituency in various locations throughout the East Ward to become acquainted.

Council Member Burke remarked that it was important to let the Board of Elections know, so there will be a minimum of confusion when it is time for the next municipal election.

Council Member Besse stated that if Council Member contact information is included on the postcards, then please confirm that all information is correct.

Council Member Merschel commented that she felt it was of utmost importance that service levels for existing and newly annexed citizens are not compromised. She stated that as a group, Council Members will have quite an increase in their constituency and she would like to see open and candid discussions regarding Council service levels, perhaps in six to twelve months.

Council Member Clark asked if the ward population numbers would be studied again prior to the next municipal election.

Mr. Norby replied that this ward realignment was intended to carry through until receipt of the 2010 census data.

Council Member Clark expressed a concern regarding intense developments such as Brookberry Farms adding many more people to individual wards.

Mr. Norby responded that this would not be unusual, and that 2011 would be the time to re-examine population and demographics.

Council Member Besse remarked that there was a clear advantage in taking action on this now to allow more than adequate time for citizens to become used to the new ward lines prior to the 2009 election.

12. APPROVAL OF SUMMARY OF MINUTES - September 18, 2006.

Council Member Burke: Motion for approval.

Council Member Merschel: Second. Unanimous.

Mayor Joines recognized various Council Members for comments.

Council Member Leight stated that it was her understanding that the sign ordinance was tabled at the Planning Board meeting to give additional time to gather information. Although the proposal is undergoing further review, she requested that the Council receive the stakeholder/staff draft version for information.

Council Member Johnson thanked everyone who attended the East Ward Town Hall meeting last Thursday. She then requested City staff look at the practice of tennis shoes being flung up on power lines, and she mentioned a specific problem in the File and Mt. Zion Place area. She added that she did not know if this would be an issue for Public Safety or Public Works Committee, but she would like to call attention to the problem and let citizens know that this is not acceptable.

Council Member Besse announced that the Southwest Ward Talk of the Town will be held on Thursday, November 9 at 6:30 p.m. at Forsyth Tech West Campus on Bolton Street.

Council Member Burke commented that the concern about sneakers on power lines has been reported to staff in the past, and she asked that enforcement of this and other unlawful activities needs to be stepped up. She advised that sneakers on power lines is a symbol for certain clandestine activities and the City needs to address it. She asked staff to check in front of Carver School, and asked how they can be removed.

Assistant City Manager Greg Turner responded that City crews would need to work with Duke Power to get them removed from power lines as there is a significant hazard.

Council Member Merschel asked that staff advise Duke Power that there are a lot of non-functioning streetlights on Business 40 between Stratford Road and Peters Creek Parkway.

Council Member Besse stated that this reminds him that Duke Power tree trimming crews have started working in Ardmore. He asked staff to communicate to the Duke Power regional office that they need to speak to crews about not butchering trees.

ADJOURNMENT: 8:20 p.m.