

D-27223

Summary of Minutes

January 3, 2007

A Regular Meeting of the Winston-Salem City Council was held on Wednesday, January 3, 2007 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	Vivian H. Burke
	Robert C. Clark	Nelson L. Malloy, Jr.
	Dan Besse	Wanda Merschel
	Joycelyn V. Johnson	Evelyn A. Terry

Secretaries: Renée P. Henderson, City Secretary and Melanie Johnson, Recording Secretary

Sergeant at Arms: Lieutenant Connie L. Southern

Invocation: Dr. Earl Wilson, Jr. of Mt. Tabor United Methodist Church

Moment of Silence for Former President Gerald Ford

Pledge Of Allegiance led by Pack 910 of St. Paul's Episcopal Church, Webelos Den 2.

Mayor Joines asked to consider Item 9 at this time due to a request received to delay the item.

9. PUBLIC HEARING AND ORDINANCE AMENDING CHAPTERS A AND B OF THE UNIFIED DEVELOPMENT ORDINANCES TO CREATE NEW DEFINITIONS AND PROVISIONS FOR SHELTERS FOR THE HOMELESS, TEMPORARY SHELTERS, AND EMERGENCY SHELTERS - Proposal of Winston-Salem Council on Homelessness and City of Winston-Salem - UDO 163. [Recommended by Planning Board.]

REQUEST RECEIVED TO DELAY UNTIL FEBRUARY 5, 2007

Council Member Merschel made a motion delay the item.

Council Member Johnson: Second. Unanimous.

8. CONSIDERATION OF ZONING PETITION OF MARY ANNE KIMEL FROM RS-9 TO RM-8-S (Residential Building Multifamily, Townhouse, Twin Home, Duplex, and Single Family; and PRD): Property located on the northwest corner of Romara Drive and Romara Court - Containing approximately 10.09 acres located in the SOUTHWEST WARD (Council Member Besse) - Zoning Docket W-2895. [Planning Board recommends approval of petition and site plan with staff recommendations. The public hearing on this matter was held on December 18, 2006.]

Council Member Besse commented that staff is working on final transportation improvements for Item 8 and made a motion to delay consideration of the item until the January 16 meeting.

Council Member Burke: Second. Unanimous.

Council Member Clark explained that the previous motion for Item 9 was to delay consideration of the item until the February 5, 2007 meeting.

1. PUBLIC HEARING ON ZONING PETITION OF HANES MALL BOULEVARD PARTNERS, LLC FROM LI TO GB: Property located on the north side of Hanes Mall Boulevard, east of Jonestown Road - Containing approximately 1.68 acres located in the SOUTHWEST WARD (Council Member Besse) - Zoning Docket W-2896. [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 Besse made a motion for approval of the petition and adoption of the zoning ordinance.

Council Member Clark: Second. Unanimous.

2. PUBLIC HEARING ON ZONING PETITION OF PELLER PROPERTIES, LLC FROM GI TO GO: Property located on the southeast corner of Hanes Mill Road and Oak Plaza Boulevard - Containing approximately 4.93 acres located in the NORTHEAST WARD (Council Member Burke) - Zoning Docket W-2897.

[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 made a motion for approval of the petition and adoption of the zoning ordinance.

Council Member Malloy: Second. Unanimous.

3. PUBLIC HEARING ON ZONING PETITION OF WACHOVIA BANK, NA FROM GO-S (Services, Business A) TO SITE PLAN AMENDMENT: Property located on the northwest corner of Silas Creek Parkway and Sunnynoll Court - Containing approximately 8.45 acres located in the NORTHWEST WARD (Council Member Merschel) - Zoning Docket W-2898. [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 Malloy: Second. Unanimous.

4. PUBLIC HEARING ON ZONING PETITION OF HEAVENVIEW TABERNACLE CHURCH FROM RS-9 AND RM-8-S (Child Daycare Center) TO RM-8-S (Church or Religious Institution, Neighborhood; and Residential Building, Single Family): Property located on the southwest corner of Clemmonsville Road and Pleasant Fork Church Road - Containing approximately 2.79 acres located in the SOUTH WARD (Council Member Leight) - Zoning Docket W-2901. [Planning Board recommends approval of petition and site plan

with staff recommendations.]

No one heard.

Council Member Leight requested a staff update.

Mr. Paul Norby, City/County Planning Board Director, explained that the petitioner has agreed to include a Type III buffer along the west side of the property that faces single family homes, as well as provide elevations for the church building to include windows and doors on the side of the structure that faces the neighborhood.

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 Leight 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.

5. PUBLIC HEARING ON ZONING PETITION OF LINVILLE WHITE, LLC FROM RS-9-S (Manufactured Home, Class A; and Residential Building, Single Family) TO RS-9: Property located on the south side of Kernersville Road, west of Robbins Road - Containing approximately 1.43 acres located in the EAST WARD (Council Member Johnson) - Zoning Docket W-2902. [Planning Board recommends approval of petition.]

No one heard.

In response to Council Member Johnson's question, Mr. Norby stated that the change in zoning would bar any future manufactured housing opportunity in the area.

Council Member Johnson pointed out that residents would prefer that there be no growth in density for manufactured housing in the community and would also like for

traffic safety issues along Highway 150 to be a high priority during all future development.

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

Council Member Johnson made a motion for approval of the petition and adoption of the zoning ordinance.

Council Member Burke: Second. Unanimous.

6. PUBLIC HEARING ON ZONING PETITION OF WINDSOR HOLDING, LLC FROM HB TO PB: Property located on the north side of Stratford Road, west of Knollwood Street - Containing approximately .54 acres located in the SOUTHWEST WARD (Council Member Besse) - Zoning Docket W-2903. [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 Besse made a motion for approval of the petition and adoption of the zoning ordinance.

Council Member Clark: Second. Unanimous.

7. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF MPAG, LLC FROM RS-9 TO RM-8-S (Residential Building, Single Family, Twin Home, Duplex, Townhouse, and Multifamily; and Planned Residential Development): Property located on the northwest corner of Jonestown Road and McGregor Road - Containing approximately 7.64 acres located in the SOUTHWEST WARD (Council Member Besse) - Zoning Docket W-2878. [Planning Board recommends approval of petition and site plan with staff recommendations. Public Hearing continued from December 18, 2006 City Council meeting.]

No one heard.

At the request of Council Member Besse, Mr. Norby explained that the petitioner has added to their buffer a privacy fence protecting an affected corner lot, as well as proposed the dedication of additional right-of-way and the installation of sidewalks along Jonestown Road. He stated that the Southwest Suburban Area Plan would be presented to the Council in 2008 and would address neighborhood concerns regarding the addition of multi-family housing, as well as stormwater and buffering issues.

Council Member Leight noted that the retention pond is higher than the adjoining property and inquired about the method of release of water from that pond.

Mr. Gregory M. Turner, Assistant City Manager, introduced Mr. John Beeson, the engineer working on the project.

Mr. John Beeson, 503 High Street, indicated that water from the pond would drain into a 30-inch pipe installed in the adjoining subdivision by the previous developer. He pointed out that there are some problems with the pipe due to previous construction but the previous developer is addressing those issues. He further indicated that his firm would offer assistance as needed to address any runoff issues that may be encountered with the lower lots adjacent to the retention pond.

Mr. Norby responded to Council Member Besse's question, stating that the lot is currently a primarily wooded lot and site preparation would entail mass grading of the lot. He indicated that although the City's policy does not require tree conservation on wooded lots, there are vegetative buffer requirements and credit is given to developers for tree retention.

Council Member Burke inquired about the replacement of insufficient stormwater pipes throughout the city.

Mr. Turner explained that the Stormwater Capital Improvement Plan includes provisions for a multi-year project to replace undersized and insufficient pipes and noted that recent flooding problems involving City-maintained pipes will be addressed through the project.

Council Member Malloy inquired about the progress of the group assigned with the task of developing options for a City tree ordinance.

Mr. Norby stated that the group is working with an independent facilitator from North Carolina State University, as well as community stakeholders to develop the ordinance. He noted that their discussions have centered around the need for a tree ordinance and have yet to cover the nature of the ordinance.

Council Member Malloy expressed concern that the need for the ordinance has already been established.

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.

Council Member Burke: Second.

Council Member Besse explained that although neighbors have raised substantial concerns, three of those have been addressed through buffer precautions, traffic flow, and stormwater issues. He pointed out that the fourth concern related to loss of tree cover cannot be adequately addressed under current guidelines, and further noted that the

Council will continually address impacts of clear cutting including flooding, runoff and clean air issues until a tree ordinance is established. He stressed that Council Members should communicate with members of the study group the urgent need to address options for a workable tree ordinance.

The motion for approval was unanimously carried.

10. PUBLIC HEARING ON RESOLUTION AUTHORIZING ASSISTANCE TO BROOKSTOWN DEVELOPMENT PARTNERS, LLC AND SPORTS MENAGERIE, LLC.

Mayor Joines asked for a summary of the item prior to beginning the public hearing.

Mr. Paige explained that the request is for \$29 million for a 5,500-seat baseball stadium in Phase One, stating that \$11 million would be for upfront incentives to fund infrastructure improvements, site preparation and stadium construction. He indicated that \$1 million would come from the City's Economic Development Fund and \$10 million would be financed over a period of twenty-five years. The City's debt service on the financing would come from a surcharge on the sale of tickets, the proposed purchase by Wake Forest University (WFU) of Ernie Shore Field, and the property tax generated by the stadium, for a total of \$21.3 million. Mr. Paige noted that the City's total participation in Phase One would be \$21.2 million, for a net profit over the entire twenty-five year period for financing Phase One of the project. In addition to the \$11 million upfront funding, \$8,012,000 will be provided in payments over a twenty-five year period after the development of Phase One of the project. Mr. Paige explained that the cumulative grants for Phase Two will never exceed 100% of the cumulative property tax generated by Phase Two, and upon completion, the City will purchase up to 1,000

parking spaces from the developer to be self-financed by property taxes, ticket surcharges, parking fees, square footage surcharges, etc. He pointed out that based on the developer's buildout proposal, \$18 million will be generated in new City property taxes over a twenty-five year period, with \$2.3 million being generated in Phase One. After financing the City would agree to purchase the County's pro-rata share of the stadium based on the property's fair market value at that time. He explained that the item before Council tonight is a resolution and guidelines under which the actual agreement would be written.

Mayor Joines inquired if the stadium would be on the tax roll as a property to be taxed by the City.

Mr. Paige stated that the stadium would be taxed in accordance with new increment taxing, resulting in a net tax value of approximately \$19 million, an amount that reflects \$3.6 million in taxes on current property subtracted from \$22.6 million in taxes on the new development.

Mayor Joines pointed out that the developer is guaranteeing the sale of 350,000 tickets per year and WFU has guaranteed their purchase of Ernie Shore Field.

Council Member Burke stated that many residents have questioned the accuracy of the figures reflected in the staff report.

Mr. Paige explained that staff has developed this information over the past three years and have verified the accuracy of the figures. He noted that the information had not been public due to the need to present all of the information to County representatives; however, the report is available for public review at this time.

Council Member Terry stressed the need for structuring the report so that it can be easily understood by all citizens.

In response to Council Member Merschel, Mr. Paige stated that the ticket surcharge will not increase the price to attend a baseball game since parking at the new stadium will be free of charge.

Council Member Besse asked about the estimated cost and method to be used to purchase the County's share of the stadium at the end of the financing period.

Mr. Paige indicated that an estimate of the cost at this time would be speculation, but it should be approximately 30% of the total value of the stadium. He stated that the City could utilize any available General Obligation or Special Obligation Bonds, or possibly Certificates of Participation (COPS). Mr. Paige explained that the stadium will serve as an asset to the City and noted that all of the return projections made by staff on this project have been conservative and there may be room for growth in revenues.

Mayor Joines pointed out that at the end of the twenty-five year period, all of the City's other obligations will be satisfied and tax revenues from the entire project will be available to cover the cost of any COPS issuance, etc.

Council Member Besse also noted that the team will be in a position to negotiate a new contract at that time.

At this time, Mayor Joines called for the public hearing on the matter.

Mr. Larry Ice, 1549 Shore Road, asked the Council to delay its vote on the item to allow citizens time to review the proposal and provide additional input. He cautioned against optimistic projections by the developer.

Mr. Bob Leak, 1080 West Fourth Street, explained that many communities are pursuing economic development opportunities and pointed out that building this stadium will help differentiate Winston-Salem as an attractive community in which to live. He noted that minor league baseball is an affordable entertainment venue for most families and this project will enhance the quality of life for residents.

Mr. Steve Snelgrove, 312 Springwater Court, spoke on behalf of the Downtown Winston-Salem Partnership, Executive Committee and presented its resolution in support of the project.

Mr. Bill Benton, 71 Park Boulevard, explained that his office is located a mile south from the proposed site and expressed his support for the project, noting that it is a compelling economic development project for the City. He stated that there seems to be few negative demands from the project and there are currently exits off the interstate in place for travelling to the site.

Mr. Virgil Gough, 1461 Norwich Road, spoke in opposition to the project due to the size of the tax burden on citizens. He stated that the deal sounds too good to be true and pointed out that the West Fourth Street project fell through except for the housing portion. Mr. Gough suggested that funds be used instead to update the current Wake Forest baseball stadium.

Mr. Von Cason, 5610 Novack Street, expressed support for the project but stated that the City needs to attract a professional team to encourage development.

Ms. Caroline Esmond, 112 Carrisbrooke Lane, stated that revitalization efforts for the community are great, but she does not support public funds being used to finance

private enterprises. She suggested deferring the project and initiating a feasibility study into the project.

Mr. Jack Fisher, 3408 Mill Run Lane, Pfafftown, stated that spending public funds for private business is wrong, and if the project is expected to be profitable, it should stand on its own. He expressed concern that the citizens will have to pay for the project if ticket sales guarantee falters.

Mr. Jack Smith, 1105 Glade Street, noted that many groups of citizens stand to benefit from the project. He stated that it would attract seniors from other areas, help to retain young professionals in the city, offer youth an opportunity to attend a baseball game, as well as provide entertainment for the stakeholders in international relationships being developed through Winston-Salem's Sister Cities program.

Ms. Kathy Pounds, 1102 Melrose Street, asked the Council to consider how the project will incorporate the use of energy efficient construction and materials and encourage less driving. She noted that the option of free parking actually encourages driving and suggested the installation of an access in front of the stadium, as well as offering the ticket surcharge to fund mass transit for citizens attending games.

Mr. George Bryan, 1001 Reynolda Road, spoke in favor of the ballpark, indicating that there had been a lot of issues with crime in the neighborhood, and stated that this project should help alleviate the problem. He noted that Legacy and the South Central Area Plan have designated the community as an urban residential gateway into the city off of Peters Creek Parkway.

Mr. Ron Wellman, 704 Westgreen Court, Athletic Director, Wake Forest University, expressed support for the project and noted that WFU has partnered with the

City and Mr. Prim to purchase Ernie Shore Field. He noted that WFU is the only team in the ACC without lights and considering the cost to update Hooks Stadium and burden to nearby residents, the purchase of Ernie Shore Field is a much more viable option. He pointed out that many cities pursue the ACC Baseball Tournament each year and having this stadium would be a big incentive for Winston-Salem to receive the event.

Mr. Greg Carlyle, 1183 West Fourth Street, explained that he has owned a downtown business since 1978, and expressed support for the plan and the prospect of attracting more business to downtown. He noted that the area has been riddled with crime and development efforts will help to solve that problem.

Mayor Joines asked if anyone else wished to be heard. Hearing no one, he declared the public hearing closed and asked for a motion on the item.

Council Member Merschel made a motion to approve the proposal with the revised resolution.

Council Member Clark: Second.

In response to Council Member Burke, Mr. Charles Green, Assistant City Attorney, explained that a call of "No Consideration" can be made on the item anytime prior to the vote.

In response to Council Member Merschel, Mr. Green stated that if "No Consideration" is called on the item, further conversation could be held when the item is considered again at the next City Council meeting.

Mayor Joines responded to Council Member Johnson's concerns, recommending that Council Members relay their questions on the matter to staff prior to the next City Council meeting.

Council Member Burke stated that although she supports economic development, she expressed concern that many residents of the affected area have questions regarding relocation and other citizens have questions about the agreement that need to be addressed.

Council Member Terry stated that the project should reflect the multicultural dynamics of the residents of Winston-Salem.

Council Member Clark made a motion to continue the item to the next City Council meeting and place it on the Finance Committee Agenda for informal discussion in the interim.

Council Member Merschel: Second.

Council Member Malloy suggested that the item also be discussed at the Community Development/Housing/General Government Committee relative to relocation issues.

Council Member Clark amended his motion to continue the item to the next City Council meeting, with informal discussion at the next Finance and Community Development/Housing/General Government Committee meetings.

Council Member Merschel: Second. Unanimous.

11. PUBLIC HEARING AND RESOLUTION ORDERING THE CLOSING OF A PORTION OF FISHEL ROAD IN THE SOUTH WARD (Council Member Leight) - Petition of Jerry and Carolyn Bauguess. [Recommended by Public Works Committee.]

Ms. Glenda Jessup, 519 Friedberg Church Road, stated that she has lived in the area for 50 years and many residents are concerned about the impact of closing Fishel Road.

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

Council Member Leight stated that this was the first she had heard of neighborhood concerns and asked staff to address the issue.

Mr. Gregory M. Turner, Assistant City Manager/Public Works, explained that the portion proposed for closure is not currently used as a right-of-way. He noted that if the closure is approved, half of the property would revert to Hubbard Realty and half would revert to Mr. and Mrs. Baugess.

Council Member Leight made a motion for approval of the resolution.

Council Member Clark: Second.

Council Member Johnson confirmed that Ms. Jessup's concerns had been addressed.

The motion for approval was unanimously carried.

12. PUBLIC HEARING AND RESOLUTION ORDERING THE CLOSING OF A PORTION OF HARRIET TUBMAN DRIVE IN THE NORTHEAST WARD (Council Member Burke) - Petition of Smith Phillips Lumber Company, Inc. [Recommended by Public Works Committee.]

Mr. Chris Yenrick, 2889 Monticello Drive, Chief Operating Officer, Smith Phillips Lumber, stated that he felt it would be in the best interest of the public to have this portion of Harriet Tubman Drive closed.

Council Member Burke noted that local church representatives were concerned about the proposed closure and stated that a representative of Smith Phillips Lumber should have communicated with them to let them know they would not be adversely effected by the closure.

Council Member Burke made a motion for approval of the resolution.

Council Member Johnson: Second. Unanimous.

13. CONSIDERATION OF ITEMS RELATING TO THE ISSUANCE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR THE OPERATION OF A LIMOUSINE/TAXICAB SERVICE IN THE CITY OF WINSTON-SALEM: [Reviewed by Public Safety Committee.]

- a. PUBLIC HEARING AND ORDINANCE AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONCEPT-1 CONCIERGE, INC.FOR THE OPERATION OF THREE LIMOUSINES IN THE CITY OF WINSTON-SALEM.

Mr. Herman Mazzeo, 1017 Pewter Court, expressed concern that many taxicab companies are in possession of unused certificates for which they have not proven a need.

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

Council Member Burke made a motion for approval.

Council Member Malloy: Second.

Mr. Turner responded to Council Member Clark, stating that certificates are valid for three years and companies can make application once a year.

- b. PUBLIC HEARING AND ORDINANCE AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO DAVE'S EXECUTIVE TRANSPORTATION FOR THE OPERATION OF THREE LIMOUSINES IN THE CITY OF WINSTON-SALEM.
- c. PUBLIC HEARING AND ORDINANCE AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO JB'S TAXI SERVICE FOR THE OPERATION OF TWENTY-FIVE (25) TAXICABS IN THE CITY OF WINSTON-SALEM.
- d. PUBLIC HEARING AND ORDINANCE AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND

NECESSITY TO ALL OCCASION LIMOUSINE SERVICE, LLC FOR THE OPERATION OF THREE LIMOUSINES IN THE CITY OF WINSTON-SALEM.

Council Member Clark requested information on the amount of certificates that are currently issued and those that are being utilized. He made a motion for No Consideration of Items 13(a-d).

14. SECOND READING ON ORDINANCES RENEWING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY OF THREE LIMOUSINE SERVICES AND ONE TAXI SERVICE IN THE CITY OF WINSTON-SALEM - Salem Taxi, Imperial Limousine Service, Royal Majestic Coach & Travel. [Reviewed by Public Safety Committee.]

Council Member Burke made a motion for approval.

Council Member Malloy: Second.

Voting in favor of the motion were Council Members Leight, Besse, Johnson, Burke, Malloy, Merschel and Terry, with Council Member Clark voting in opposition. The motion carried on a vote of seven in favor and one opposed.

At this time, Mayor Joines congratulated the WFU Football team on its successful season and thanked them for representing the City of Winston-Salem. He then recognized Council Member Burke for a motion.

Council Member Burke made a motion for the Council to enter into Closed Session to consult with its City Attorney, to preserve the attorney-client privilege and to consider and give its City Attorney instructions concerning a legal matter pursuant to N.C.G.S. 143-318.11(a)(3).

Council Member Merschel: Second. Unanimous.

City Council entered into Closed Session at 9:23 p.m.

At 10:22 p.m., Council Member Leight made a motion dissolve the Closed Session and resume Regular Session. The motion was duly seconded by Council Member Burke and unanimously carried.

ADJOURNMENT: 10:22 p.m.