

SUMMARY OF MINUTES

COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE

4:00 P.M., TUESDAY, JUNE 10, 2008

COMMITTEE ROOM

ROOM 239, CITY HALL

MEMBERS PRESENT: *Council Member Nelson L. Malloy, Jr. Chair*
 Council Member Dan Besse, Vice Chair
 Council Member Molly Leight
 Council Member Evelyn A. Terry

Chair Malloy called the meeting to order and stated that without objection, the Committee would first consider the Consent Agenda.

Chair Malloy noted that staff requested Items C-6(c&d) be removed from the agenda.

Council Member Besse requested to pull Item C-1.

Chair Malloy noted that someone was in attendance for Item C-4(c) and requested to pull that item.

No other items were removed for discussion. Council Member Besse made a motion to approve the Consent Agenda. The motion was duly seconded by Council Member Terry and carried unanimously.

CONSENT AGENDA

- C-2. REPORT ON REENTRY GUIDELINES AND PERSONNEL POLICIES RELATED TO BACKGROUND CHECKS AND CREDIT REPORTS.

- C-3. ORDINANCE AMENDING CHAPTER 42, ARTICLE IV ENTITLED STOPPING, STANDING AND PARKING (No Parking on Front Lawns). Public Hearing: July 7, 2008. [This item was continued from the May 13, 2008 Committee meeting.]

- C-4. ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF A STRUCTURE PURSUANT TO CHAPTER 10, ARTICLE V, SECTION 10-203(f)(1) OF THE CODE OF THE CITY OF WINSTON-SALEM: [Repairs less than 50% of value of structure (<50) six months].
 - a. C. W. Myers Trading Post, Inc. 2329 Dunbar Street

 - b. Gaunzie W. Jembere, heirs 3711 Prospect Drive

 - d. Valrapunzel & Triphinia Harris 3520 Hemlock Drive

- C-5. ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF A STRUCTURE PURSUANT TO CHAPTER 10, ARTICLE V, SECTION 10-203(f)(2) OF THE CODE OF THE CITY OF WINSTON-SALEM: *[Repairs more than 50% of value of structure (>50) six months]*.
- a. Marianne Dehart 4530 Old Walkertown Road
Accessory Building
- C-6. ORDINANCE ORDERING THE NEIGHBORHOOD SERVICES DEPARTMENT OF THE CITY OF WINSTON-SALEM TO REMOVE OR DEMOLISH STRUCTURE UNFIT FOR HUMAN HABITATION AND, OTHERWISE, TO EFFECTUATE THE PURPOSE OF CHAPTER 10, ARTICLE V OF THE WINSTON-SALEM CITY CODE: *[Repairs more than 65% of value of structure (>65)]*.
- a. Crystal Allen 413 Croydon Lane
- b. Elmo & Dorothy Linton 4619 Renigar Street
- C-7. APPROVAL OF SUMMARY OF MINUTES - *May 13, 2008*.
- C-1. REPORT ON FUEL CONSERVATION INITIATIVES.

Council Member Besse requested a brief review of the item.

Mrs. Martha Wheelock, Assistant City Manager, stated that staff has been monitoring fuel usage and took extra measures to reduce fuel consumption in April and May of this year. She also stated that staff has worked with individual departments on methods to immediately reduce fuel usage and noted that some business processes may be changed. In response to Council Member Besse's concern, Mrs. Wheelock noted that there was an error in the reporting and that information presented reflects fuel usage for the entire police fleet. She also noted that in an email sent to all City staff members, fuel usage reduction measures were outlined, such as no idling of vehicles, and that many departments are taking individual initiative to reduce fuel consumption.

In response to Council Member Leight's question, Mrs. Wheelock stated that while police vehicles are not exempt from the outlined procedures, they do have different operating habits and are held to a different standard.

Mr. Lee Garrity, City Manager, noted that the Police Department has reported the biggest decrease in fuel consumption this year.

- C-4. ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF A STRUCTURE PURSUANT TO CHAPTER 10, ARTICLE V, SECTION 10-203(f)(1) OF THE CODE OF THE CITY OF WINSTON-SALEM: *[Repairs less than 50% of value of structure (<50) six months]*.
- c. Thomas & Daisy Hinton 1227 Gholson Avenue

Mr. Bruce Bailiff, Code Enforcement, presented background information on the property.

Mr. David C. Hinton, 3766 Guinevere Lane, requested an extension on the demolition. He stated that the property is owned by his parents and as their legal power of attorney, he is trying to get the deed switched to his mother's name as his father is in the hospital. He also stated that he has applied with the City to obtain a housing rehabilitation loan and presented a letter from his attorney noting that an additional 10 days is needed to obtain the proper documents. In response to Chair Malloy's question, Mr. Hinton stated that the property has been vacant for two years and he intends to rent the property or sell it. He also stated that there is not currently a tenant in line, but he feels certain the property will draw interest once repaired and he intends to manage the property if rented.

Council Member Leight questioned whether or not a six month extension would allow enough time for repairs to be complete.

Council Member Terry expressed concern that six months was too long and suggested that six months be the maximum amount of time allowed in hopes that repairs will be complete before then. She also requested that Mr. Hinton make a good faith effort to ensure the property will be inhabited by an upstanding citizen.

Mr. Bailiff noted that if the ordinance were to be adopted as is, Mr. Hinton will be allowed 90 days to comply.

Mr. Derwick Paige, Deputy City Manager, noted that the loan application mentioned by Mr. Hinton may take 45 to 60 days to complete and approve.

Council Member Leight made a motion to allow 180 days for Mr. Hinton to complete repairs on the property. The motion was duly seconded by Council Member Terry.

Mrs. Angela Carmon, City Attorney, requested clarification if an additional 90 days was the motion as the City Ordinance allows 90 days.

Chair Malloy asked that the motion be amended to delay staff recommendation for demolition for 180 days rather than 90 days. The motion carried unanimously.

Council Member Terry questioned whether or not a voluntary demolition agreement (VDA) was necessary in the event the repairs would not be made so the blighted property would be removed. She made a motion to include a VDA in the item. The motion was duly seconded by Council Member Leight and carried unanimously.

Mr. Ritchie Brooks, Neighborhood Services Director, noted that the VDA allows the owner to demolish the property in the set amount of time and if not, then the City will demolish the property.

In response to Council Member Terry's question, Mr. Norby stated that staff has been working on the idea of the proposed ordinance since the Community Appearance Commission's recommendation in 2004.

In response to Chair Malloy's question, Mr. Norby noted that the tree committee reviewed the idea of a proposed tree ordinance from 2006 to 2007.

Mr. Glenn Simmons, Principal Planner, gave the presentation.

In response to Chair Malloy's question, Mr. Norby stated that staff is proposing two tree save options, both of which will require an arborist to certify the quality of trees in a given area.

In response to Council Member Besse's questions, Mr. Norby noted that the information presented at the March Committee meeting contained more details of the proposed ordinance, while the current presentation is the same information that was presented at two public meetings, reflecting the proposed draft ordinance and how it will be enforced. He also noted that members of the tree committee along with other citizens attended the meetings.

In response to Council Member Terry's question, Mr. Norby stated that the reason for today's presentation was at the request of City Council in March to create a draft ordinance if staff's recommendation differed from the tree committee's recommendation.

Mr. Paige noted that the Committee could listen to the presentation today and address questions or concerns at next month's meeting, but review it several times to ensure that all concerns are addressed.

In response to Chair Malloy's question, Mr. Norby noted that no action needs to be taken today as the presentation is for information only. He also noted that the proposed ordinance must go before the Planning Board prior to being presented to full Council. He further noted that staff should be able to bring a recommended ordinance to full Council by October, but that is subject to change.

Council Member Besse requested to know what technical questions would be addressed in today's presentation, such as the calculation of a tree save area, how the proposed ordinance will be applied and how it will meld with other current ordinances. He also requested that once these questions are addressed, that the draft proposed ordinance be reviewed by the Committee again, prior to forwarding to the Planning Board.

In response to Council Member Leight's question, Mr. Norby noted that Growth Management Area (GMA) 5 is proposed for exclusion due to public sewer line installation needs, but there is no other practical incentive to developers for exclusion.

Mr. Simmons noted that additional inspectors will need to be hired to enforce the proposed ordinance. In response to Council Member Terry's question, he noted that there is no maximum or minimum area requirement for non-subdivisions but there is a street frontage requirement that will need to be met by each property, reducing the staffing requirements for enforcement.

Council Member Leight requested a minor subdivision tree save area requirement.

Council Member Terry noted that staff should try to create an ordinance that would not create an additional burden for the City through staffing and enforcement.

Mr. Norby noted that tree cuttings are a concern but infill regulations will affect the proposed ordinance as well. He also noted that infill regulations will greatly assist with development concerns in minor subdivisions, but if a tree save requirement is made in addition to an infill regulation, development costs will increase along with staffing costs. He further noted that the proposed ordinance will require two additional staff members and did not encourage Council to adopt the ordinance until the staffing requirement can be met, possibly in Fiscal Year 2009-2010, to allow for hiring and adequate training.

In response to Council Member Besse's question, Mr. Simmons confirmed that excluding minor subdivisions, there will be a minimum of 12% tree save space in a developed area and in non-minor subdivisions, there will be a minimum of 10% tree save area.

In response to Council Member Besse's question, Mr. Norby confirmed that tree save areas will be calculated by tree stands or root zones and in areas where there are not enough existing trees, trees can be planted to meet the percentage requirement. He also noted that the existing *Unified Development Ordinance* states that planting can be modified to meet the needs of a development.

Mr. Simmons noted that the landscape of the City would be much different if the ordinance existed 20 years ago and that tree save requirements must be met prior to the grading of an area. In response to Council Member Leight's question, Mr. Simmons stated that single family homes on single lots are subject to tree-topping standards but individual trees are monitored for topping rather than an area of trees. He also stated that while there may be residential tree requirements in other cities, enforcement is difficult.

Council Member Leight expressed concern that schools will not be held to the same standards as residential developments. She noted that non-residential areas require 10% tree save area, while there is only a requirement of 15 trees per 20 acre school site.

Mr. Simmons noted that regulations in the proposed ordinance will be different.

Council Member Terry requested that staff review the area at Lynwood Plaza at the Glenn High Road entrance as she is concerned that with development in the area, there will not be enough trees.

Mr. Norby noted that with existing requirements for parking lots, streets, buffer yards and landscaping, developers can meet tree save requirements by tweaking certain areas.

In response to Council Member Terry's question regarding current enforcement, Mr. Norby noted that certificates of occupancy cannot be issued until all site plan and landscaping requirements are met.

Council Member Besse expressed concern that page 10 of the proposed ordinance in section A-3(d) regarding alternative compliance, it is noted that tree save requirements can be waived and tree planting can be initiated if certain circumstances are met, but that negates the purpose of the proposed ordinance. He also expressed concern that wording of the ordinance is too broad and adequate direction is not given for inspections and enforcement.

Mr. Simmons noted that in some instances, trees cannot be saved and other alternatives will apply. He also noted that there are discretionary measures to consider.

Council Member Terry requested examples of various situations to provide visual insight into different areas.

Mr. Simmons noted that staff could review older site plans and see how the current ordinance would affect different developments.

Council Member Leight requested that incentives be outlined for saving trees in contrast to replanting and that the proposed ordinance be reworded to say that trees should be saved, and if not, then they should be replanted.

Council Member Besse noted that if appropriate restrictions are outlined in the proposed ordinance, it will not be permitted to waive the tree save requirement.

In response to Council Member Leight's question, Mr. Simmons stated that the Inspections Department will be responsible for enforcement and issuance of any punishment.

In response to Council Member Leight's question, Mr. Norby stated that if trees are accidentally removed from an area, there may be a requirement that two times as many large caliber trees must be planted as replacements, but he was uncertain of the details.

In response to Chair Malloy's question, Mr. Norby noted that the next appropriate steps for staff would be to forward the proposed ordinance to the Planning Board or seek more time and solicit more input if the Committee wishes.

Ms. Melynda Dunnigan, 1875 Mallard Lakes Drive, stated that she served on the tree committee and there are some considerable differences between their recommendations and staff's proposed ordinance, but she feels confident that questions and concerns were addressed so she is comfortable with the proposed ordinance. She also stated that the tree committee recommended the idea of tree save areas and where tree save requirements cannot be met, additional trees should be planted. She further stated that the tree committee recommended all quality trees be left on site and that possible incentives could be offered to reduce tree save area size if enough quality trees were present otherwise. Ms. Dunnigan noted that the tree committee recommended the proposed ordinance be incorporated into the existing landscape ordinance to simplify the requirements and possibly meet the requirements of both under one ordinance. She also noted that the tree committee did not suggest maintenance requirements for single family developments, but noted that they should be included in the proposed ordinance.

Mr. Simmons noted that tree save areas are recorded on development plats but they are hard to enforce on individual properties.

Ms. Dunnigan noted that in Charlotte, residential tree save requirements have been established but are only enforced if neighbors complain. She also noted that the tree committee only recommended that GMA 1 be excluded from requirements, not GMA 5. She further noted that the tree committee suggested that heritage trees be retained on site and removal should be mitigated by planting a larger number of trees, one and a half to two times the area of the previous tree canopy. In response to Council Member Besse's question, Ms. Dunnigan stated that the vagueness of the alternative compliance in the proposed ordinance worries her and suggested that language directing arborist discretion be tightened. She also stated that when speaking with a City of Charlotte staff member, no comparable discretionary language was mentioned.

Mr. Simmons noted that more tree-covered areas will be conserved with the new stormwater requirements and the elected body has discretion within special use zoning permits.

Council Member Leight requested that it may be necessary to develop another advisory committee to help with the draft ordinance.

Council Member Terry requested that staff set a few standards and parameters for enforcement.

In response to Council Member Besse's question, Mr. Simmons stated that Duke Energy has discretion for tree topping and removal in the public right-of-way, but that discretion is addressed in a different area of the City Code of Ordinances. He also stated that Duke Energy follows specific criteria for tree modification.

Mr. Norby noted that staff will take the Committee's comments under advisement and bring the item back to the Committee prior to forwarding to the Planning Board.

Chair Malloy expressed concern that the use of trees as buffers between new and old developments may not always be utilized. He noted that there was no tree buffer between the Stonewall development and the new development next to it.

Mr. Norby noted that a Planned Residential Development (PRD) has provisions in place for providing buffers between new PRD and subdivisions.

Mr. Simmons noted that by definition, buffer yards are intended to separate different intensities within developments.

In response to Chair Malloy's question, Mr. Norby noted that the ordinance will not apply to trees in flood plains as they are logical areas to preserve trees, so they may already meet the requirement.

Chair Malloy expressed concern that if the tree save area for a development is within a flood plain, it should not count because a flood plain is an area that cannot be utilized within the development.

Mr. Norby noted that under the current ordinance a developer can fill up to half of a flood plain area and build or plant in that area. In response to Council Member Besse's question, he stated the item will be forwarded to the Planning Board in July or possibly September.

Council Member Leight requested that staff modify the wording involving minimizing tree save area and state "up to a maximum," and then specify an amount for the tree save area.

Council Member Besse noted that the alternative compliance limitation language is a critical piece of the ordinance and requested that staff review that section and bring the item back to Committee for review in July.

Chair Malloy requested the item be presented to Committee before going on to the Planning Board in July.

ADJOURNMENT: 6:20 p.m.