

SUMMARY OF MINUTES

COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE

4:05 P.M., TUESDAY, OCTOBER 13, 2009

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

OTHERS PRESENT: Council Member Joycelyn V. Johnson (in at 4:06 p.m.)

Chair Malloy called the meeting to order and stated that, without objection, the Committee would first consider the Consent Agenda. Council Member Terry requested to pull Items C-4 and C-5. No other items were removed for discussion.

Council Member Leight made a motion to approve the balance of the Consent Agenda. The motion was duly seconded by Council Member Terry and carried unanimously.

Council Member Johnson in at 4:06 p.m.

CONSENT AGENDA

- C-1. RESOLUTION AUTHORIZING SUBMISSION OF CONTINUUM OF CARE HOMELESS GRANT APPLICATION, ACCEPTANCE OF GRANT FUNDS, AND EXECUTION OF SUBGRANTEE AGREEMENTS.
- C-2. ORDINANCE AMENDING THE PROJECT BUDGET ORDINANCE FOR THE CITY OF WINSTON-SALEM, NORTH CAROLINA FOR THE FISCAL YEAR 2009-2010 TO APPROPRIATE HOMELESSNESS PREVENTION AND RAPID RE-HOUSING PROGRAM FUNDING PROVIDED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009. [*\$1,091,170.*]
- C-3. REPORT ON DEVELOPMENT REVIEW PROCESS.
- C-6. APPROVAL OF COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE SUMMARY OF MINUTES - *September 15, 2009.*
- C-4. REPORT REGARDING OPERATION IMPACT.

Mr. Derwick Paige, Deputy City Manager, stated that there was an extensive report on this item in the Agenda Book but he would provide a summary. Operation Impact (OI) was created and implemented by the Neighborhood Services Department in 1996, whereby Code Inspectors worked with other city departments, such as Police, Fire and Sanitation to address problem properties. In 2002, Neighbors for Better Neighborhoods met with Community Assisted Public Safety (CAPS) program representatives from Richmond, Virginia, to review comparisons between CAPS and OI, and implemented some of CAPS components. In July 2003, a pilot program was implemented and OI properties were selected if they met specified criteria and staff would attempt to address up to ten properties at any one time. During the pilot, 26 inspections were conducted, 177 violations were cited, and there was a success rate of 84%. The OI program was expanded city-wide in December 2004, and staff began assessing 20 problem properties at any one time. In the first two years of the program, individual properties were nominated by citizens and neighborhoods. At that time, only 22 properties were nominated, but the OI team realized that more problem properties existed than were being addressed and agreed to accept nominations of properties from participating OI agencies. The OI team decided to not only focus on problem properties, but on communities where multiple properties were in decline. Since 2007, four community-wide OIs have been performed: Old Rural Hall Road/Motor Road, Easton, Waughtown, and Belview. 70% of properties inspected must have some code violation within the last five years for a community to qualify for OI. Larger communities are divided into multiple phases for ease of inspection. Since the OI program expanded, several modifications have been made to provide greater flexibility, such as the involvement of Forsyth County Animal Control and Health Department. The OI team has also switched from a monthly meeting to a quarterly meeting and has made programmatic changes that arose through citizen concern over the years. Language within letters to property owners has been modified to give a specific day and time range for the inspections and administrative search warrants are obtained ahead of the inspections. Staff has reviewed the reported incidents from the June OI in the Easton community as well as letters received by the residents. Since the beginning of the community-wide OI implementation in 2007, staff has inspected over 600 properties.

Council Member Terry requested that neighborhood-wide OIs be suspended until further review. Due to the June occurrences in the Easton community, she previously suggested that residents meet with the Committee, and from that meeting, questions arose as to the need for evaluation of the OI program.

Council Member Johnson noted that even though data prior to 2003 is non-existent, there is proof that OI worked. For example, in 1996 and previous years, the community in front of the post office on Patterson Avenue was blighted yet was reformed through the help of OI and support from the Winston-Salem Police Department (WSPD). She also noted that the concept of OI works and hopes that the program continues, although the current process may need modification.

Council Member Terry expressed her support for OI and stated that there is no reason to abandon it as there are over 400 properties in need of evaluation and staff can only address about ten per month.

Chair Malloy stated that due to absentee landlords and uncaring homeowners, properties began to deteriorate, and when staff was urged to develop a remedy to the situation, OI was created. He also stated that deteriorating communities breed crime and further dilapidation. He further stated that the program may need to be modified to stop any unintended consequences.

Mr. Julius E. Davis, 3601 Rosie Street, stated that he bought his house in 1979 and the Easton

neighborhood has slowly deteriorated through the years. He also stated that in the past eight years, OI has changed, and originally, homes were not entered if no violations were apparent from the outside. He further stated that OI is inconsistent with its inspection of homes, skipping over some houses and jumping from block to block, which is a waste of City resources. He questioned that, as a homeowner, if there were no visible exterior violations, why was his home inspected and one down the street with broken windows and open doors was not. In response to Chair Malloy's question, Mr. Davis noted that Easton residents met and discussed their concerns and when Mr. Robert Leak, 1227 Hart Street, made contact with Mr. Paige, they were told everything was resolved.

Mr. Paige noted that Mr. Leak's issues have been resolved, but there are still concerns from other residents.

Mr. Davis stated that City staff was supposed to meet with neighborhood representatives where a list of the community's recommendations could be provided, but that never happened.

Mr. Garrity noted that there was a misunderstanding as to what type of meetings were to take place, but that staff is working with Mr. Paige and residents of the Easton community to help nominate properties and other communities in need of OI.

Council Member Terry noted that the Easton neighborhood held a meeting on October 8 and the purpose of the meeting was for residents to list their recommendations for OI and to present them to the Committee today for reconstruction and/or reconfiguration.

Ms. Mona Henderson, 827 Elon Street, noted that she has the list of recommendations that came from the October 8 meeting but was told she would not need the list for today's meeting. She also noted that she will email the list to Committee Members and staff.

Mr. Davis noted that at the last Easton meeting, there were representatives from other neighborhoods and there is a general consensus that citizens are happy with OI's effectiveness, but have concerns about the invasion of privacy. He also noted that he has no issue with the inspection of rental properties at random, but not private homes. He further noted that he was cited for a falling ceiling, which was in fact a piece of wallpaper he had pulled down for a contractor.

Council Member Leight noted that while the inspection may feel like an invasion of privacy, there have been many OI success stories from owner-occupied homes. She also noted that there appear to be misperceptions about community-wide OIs.

Mr. Paige stated that a community-wide OI is not a "hit or miss" plan, rather the community will be separated into phases for more manageable inspection.

Ms. Stephanie Stimpson, OI Coordinator, stated that the OI process entails an initial ride through of a community, staff obtains a list of properties from the Forsyth County GEO Data system (including vacant or weeded lots), that list is given to inspectors and they visit door-to-door for the community-wide inspection.

Mr. Leak expressed his wishes for staff to escort members of the Easton community through the

neighborhood and point out violations that may be cited. He also stated that previously, some Easton residents participated in a ride-along with Mr. Garrity, Captain Connie Southern, WSPD, and others, when initial concerns were raised about OI. He questioned why it appears that some properties were nominated and not others. He further stated that he has received two eviction letters for a broken window and a broken interior door lock.

Ms. Stimpson noted that Mr. Leak's property exists in an area that was nominated and all properties had to be inspected to be impartial. If there were no violations, properties were not cited. She also noted that residents involved in OI receive two letters: one for the hearing date and one for a residential order to repair or vacate which includes a set period of time to bring the property into compliance.

Chair Malloy noted that this issue needs further discussion and will not be resolved today. He requested that City staff meet with residents to hear and address their concerns.

Mr. Garrity noted that while citizens have certain homes they would like to nominate for OI, they do not seem to be in favor of the community-wide OI.

Council Member Terry noted that citizen education is key and residents should be informed on the nomination process for OI. She also recommended that residents of the Easton community should present any requests or concerns in writing, to City staff.

Mr. Phillip Carter, 5033 Eltha Drive, Apartment H, stated that Easton residents feel the systematic use of inspections has been an act of retaliation and noted that residents had repeatedly complained about a property on Gray Avenue, where the body of a deceased lady was found several weeks ago. He also stated that residents do not want OI abandoned, but feel that the process needs modification so the community is comfortable with it.

Chair Malloy noted that the community should not feel as though OI is a form of retaliation at all, especially since citizens request OI to help make the community a better place to live. He also encouraged citizens to continue to nominate properties.

Ms. Nancy Gould, 195 Executive Park Boulevard, stated that property management associations, landlords and property managers have been complaining about OI for years, especially community-wide OIs. She also stated that community-wide OI programs need to be reviewed to determine that the goals of the program are being met. She further stated that she would be happy to present her comments/concerns in writing at a future meeting.

Mr. Mark Saunders, 1825 Legacy Park Lane, noted that as a property manager, he has been left out of the loop and was never informed about the Easton community meeting. He suggested that perhaps staff can work with local property managers to inform them of upcoming meetings or events that may affect their properties. He also noted that not only do housing violations exist in this area, there are also several vacant properties that need attention as well.

Mr. Richard Miller, 626 N. Trade Street, member of the Winston-Salem Association of Realtors, stated that he is concerned with the invasive nature of OI and receives complaints from his tenants

about the use of administrative warrants. He also expressed that he would like to see the City revert to a type of OI done by exterior visual inspection. He further stated that there is no respect for citizen's privacy if their home is entered when they are not in attendance. Mr. Miller expressed concern about locksmiths and battering rams being used to enter homes, and fears that a situation could turn tragic if a resident is unaware that someone will be entering their home.

In response to Chair Malloy's question, Ms. Stimpson stated that locksmiths are used with the assistance of WSPD personnel if there is no answer at the time of the inspection. If the locksmith must remove the lock to obtain entry to a residence, a new lock is installed and staff must transfer the new keys to the property owner by the end of that day.

Mr. Garrity noted that in many instances, homes that are nominated have significant Housing Code violations and/or criminal elements, so the administrative warrant is essential to gaining entry into those homes.

Chair Malloy requested that Ms. Stimpson set a time and date for a meeting between staff and Easton residents.

Council Member Besse requested that staff set an open meeting for discussing procedural issues and that residents from the Easton neighborhood, other neighborhood associations and representatives from interested organizations be invited. He also suggested three areas for review: targeting of properties through community-wide or individual property nominations; notification process and a specific time that the OI will occur; and inconsistent inspection criteria.

Council Member Terry requested that crime be included as part of Council Member Besse's targeting request.

Mr. Garrity noted that staff is currently reviewing notification wording to make it more customer friendly, but still meet the legal requirements.

Chair Malloy requested that Mr. Leak, Mr. Carter and others in attendance meet with Ms. Stimpson today to set a meeting and that other interested parties be notified.

Council Member Johnson requested that Neighborhood Assistant Specialists convey this information to other neighborhood groups.

Council Member Terry expressed her thanks to citizens who have helped staff recognize a need to evaluate the OI process so that it is more effective.

C-5. REPORT ON THE DRAFT SOUTHEAST SUBURBAN AREA PLAN.

Council Member Terry noted that the public hearing date for this item has been set for November 2 at 7:30 p.m.

Mr. Paul Norby, City/County Planning Director, noted that Council Members Terry and Johnson have been very involved in the draft process and have also attended various meetings. He clarified that staff will make a presentation on the Southeast Suburban Area Plan to the full Council on

November 2.

GENERAL AGENDA

- G-1. ORDINANCE AMENDING CHAPTER 10 OF THE CITY CODE RELATING TO A NONRESIDENTIAL BUILDING AND STRUCTURE CODE. *[Item continued from the September meeting of the Community Development/Housing/General Government Committee.]*

Mr. Ritchie Brooks, Neighborhood Services Director, stated that this item was previously presented at the September Committee meeting, and the City now has authority to inspect non-residential buildings, similar to the process outlined in the Minimum Housing Code. The primary difference is that prior to a non-residential building being demolished, there is a wait period of two years and a recommended fine. He also stated that staff met with local property managers and agreed to move forward with a recommendation on vacant non-residential buildings only. Staff recommends a process similar to the recent review of the Minimum Housing Code, through an established committee that will review the occupied non-residential portion of the Code and bring recommendations at a later date. He further stated that staff did notify property managers and other interested parties of today's meeting.

Council Member Leight stated that she sees no need in differentiating between vacant or inhabited non-residential properties, as both situations may cause health and safety hazards. She also stated that she sees no need in further study of the topic because the bottom line is whether or not the property is up to Code, not whether it is vacant or inhabited. She recommended that "vacant" be removed from the wording and that it simply refer to "non-residential" structures.

In response to Council Member Terry's question, Mr. Brooks stated that he did not know how many of the non-residential structures surveyed were vacant. He also stated that there is some concern from local realtors that moving forward with an amendment for occupied non-residential structures would not allow adequate time to analyze all possible violations and they fear this may result in increased business costs. For example, according to the Minimum Housing Code, a non-functional toilet in a vacant non-residential building would not have to be repaired.

Council Member Besse noted that it is evident that Inspections and Code Enforcement staff are under pressure to review the most severe cases of vacant non-residential properties that have been creating problems and blighting areas for extended periods of time. He further noted that it seems reasonable to begin reviewing vacant non-residential properties while continuing to review the adaptation of the Housing Code to non-residential properties across the board. He made a motion to accept staff's recommendation, set a public hearing date for adoption of the proposed ordinance for vacant non-residential structures for the November 16 City Council meeting and to authorize staff to establish a review committee to further discuss the application of the ordinance against occupied non-residential structures. The motion was duly seconded by Council Member Terry.

In response to Council Member Johnson's question, Mrs. Angela I Carmon, City Attorney, stated that there is not adequate time to advertise a public hearing on this item for the October 19 meeting.

Mr. Saunders presented a picture of a property he owns, which has been vacant for two years. He

noted that although the rent is low, potential tenants fear there will be excess costs incurred to bring it up to Code, or with a change of use request.

In response to Mr. Saunders' concern, Mr. Brooks noted that as the property is vacant, as long as any plumbing outlets are capped off, the property will not be in violation of the Code.

Council Member Leight voted in opposition of the motion.

The motion carried on a vote of three in favor and one opposed. Those voting in favor were Council Members Malloy, Besse and Terry with Council Member Leight voting in opposition.

G-2. ORDINANCE AMENDING CHAPTER 10 OF THE CITY CODE RELATING TO BUILDING PERMIT FEES.

Mr. Charles Norton, Inspections Director, stated that staff requests to add a new fee for an evaluation permit for the inspection of existing commercial buildings, which will take place prior to the issuance of licensing. Staff has worked with commercial realtors and property owners for several months and along with the change of use task force, have determined several goals and enhancements to improve the process. The task force feels it would be a benefit to have information prior to leasing a space or buying a building so the owner can know what to expect. This process will allow inspectors to perform the evaluation on the building, electrical, plumbing and mechanical needs, as well as fire and zoning inspections, if warranted. Once the evaluation is complete, the inspector will provide written documentation as to his findings and whether or not the project moves forward, staff can capture and utilize the gathered data. The property owner will receive information on whether or not the proposed use is feasible, requirements of the building code, Unified Development Ordinance inadequacies, and any other issues that may be triggered. A public hearing on the proposed change will be held and the item will probably move forward to the full Council in November.

Council Member Leight noted that this item was thoroughly discussed by the Finance Committee and it was their recommendation that the inspection application clearly note that any information provided would be general in nature. She made a motion to bring the item back to the Community Development/Housing/General Government Committee meeting in November. The motion was duly seconded by Council Member Terry and carried unanimously.

G-3. ORDINANCE AMENDING VARIOUS SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCES REGARDING CONSOLIDATION OF CERTAIN USES IN THE PERMITTED USE TABLE FOR THE PURPOSE OF SIMPLIFYING THE CHANGE OF USE PROCESS - *Proposal of City-County Planning and Inspections Staff – UDO-205. [Recommended by the Planning Board.]*

Mr. Norby noted that this item is a report to the Committee and that the public hearing is scheduled for the November 2 City Council meeting. There are Building and Zoning Code aspects regarding change of use, but these amendments only address the Zoning Code.

Mr. Aaron King, Principal Planner, presented the changes outlined in the recommendation to various sections of the Unified Development Ordinance for consolidation and simplifying the change of use

process.

In response to Council Member Johnson's question regarding campus zoning districts for police and fire personnel, Mr. Chris Murphy, Assistant Inspections Director, stated that any police or fire personnel on the campuses of Winston-Salem State University or Wake Forest University (WFU) are considered accessory to the university, and an individual police or fire station for the City could not be located in a campus zoned district. The property on Reynolda Road which houses a fire station would have to be rezoned to be allowed on the WFU property.

Council Member Johnson questioned how congregate care facilities would be addressed since not all of them are a part of a life care community due to varied levels of assistant care and how these facilities would be addressed if all existed on one campus.

Mr. Murphy read the definition of a congregate care facility and noted that if an assistant care facility was part of a nursing care facility, it would be considered a life care community. He also noted that a stand alone facility could be zoned residential, multi-family, and would be considered congregate care. Mr. Murphy stated that staff will report back on Council Member Johnson's concerns and read the definition of a life care community. He also stated that removal of the use of a congregate care facility will not hamper the operation of any existing facilities.

Council Member Terry questioned how future land uses will be addressed under the recommended amendment, should an area's use change so the process is not so difficult.

Mr. Norby stated that Planning staff is reading the book "A Better Way to Zone," as recommended by Council Member Terry. Staff is also assessing methods of structuring the zoning system for mixed use areas, as there are several zoning districts containing multiple land uses.

In response to Council Member Besse's question, Mr. Murphy stated that retail store zoning does not include outdoor display retail and motorcycle dealerships are zoned retail rather than outdoor display retail.

Council Member Besse expressed concern with noise associated with motorcycle dealerships and questioned if it would be more feasible to consider motorcycle dealerships as outdoor display retail, rather than general retail.

Mr. Norby noted that motorcycle dealerships are not allowed in the NB zoning district but staff will review.

Council Member Leight noted that rooming houses are illegal in residential areas but neighborhoods that are impacted by the rooming house ordinance have seen no improvement and feels that the ordinance needs further review. Due to zoning districts that have been grandfathered or are non-conforming, there are still areas that have multiple rooming houses, many of which are occupied by sex offenders.

Mr. Paige noted that rooming houses were previously reviewed in two phases. A rooming house could not be created after a certain date. Rooming houses entering prior to that date had to be registered by December 31, 2008 and had three years for the property to be brought into compliance

by removing locks, rezoning as an apartment or conversion to a single family structure. By the end of 2011, all rooming houses must be brought into compliance or cease operation.

Council Member Leight expressed concern that rooming house owners may comply during inspection and then resume operation as a rooming house in an area where it may not be allowed.

In response to Council Member Leight's question, Mr. Norby noted that many years ago, cities were over-zoned to allow a lot more density than was needed, thereby allowing multiple uses in what could be a relatively small area. He also reiterated Mr. Paige's comment that staff dealt with informal rooming houses occurring in single family zoning districts through a phased implementation in the past.

Mr. Murphy read the definition of a boarding house and rooming house, and proposed that they will be combined into a single use rather than a multiple use category, so they will have a principle, stand alone use. Currently, boarding and rooming houses are allowed as a principle permitted use in the following zoning districts: RM-12, RM-18, RM-U, PB, HB, GB and CB.

Mr. Norby stated that staff will report back on zoning within the West Salem neighborhood, per Council Member Leight's concerns.

In response to Council Member Terry's comments regarding the zoning of properties along Alder Street, Mr. Norby stated that there was some rezoning for Alder Place. He also stated that in the composition of area plans, staff typically outlines areas where there could be land use changes as a guide for any future proposed rezonings.

Council Member Johnson requested that staff travel down Third Street up to Laura Wall Boulevard, prior to Martin Luther King, Jr. Drive and note a banner indicating rooming houses. She noted that the banner has been erected within the last two weeks and other residences seem to be single family homes.

Mr. Norby noted that staff would review that area and that it may have been over zoned. He also noted that there is no need for a vote at this time, as the item was presented for information prior to its schedule public hearing on November 2.

ADJOURNMENT: 6:25 p.m.