

## SUMMARY OF MINUTES

### COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE

4:05 P.M., TUESDAY, JANUARY 12, 2010

COMMITTEE ROOM

ROOM 239, CITY HALL

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*MEMBERS PRESENT:* Council Member Dan Besse, Chair  
Council Member Denise D. Adams, Vice Chair  
Council Member James Taylor, Jr.  
Council Member Molly Leight

*OTHERS PRESENT:* Council Member Robert C. Clark (in at 5:08 p.m.)  
Council Member Derwin L. Montgomery (in at 5:23 p.m.)

Chair Besse called the meeting to order and stated that, without objection, the Committee would first consider the Consent Agenda and asked if any items needed to be pulled. No items were removed for discussion.

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

#### CONSENT AGENDA

- C-1. REPORT ON PROJECT "WE CARE." [*Item continued from the December meeting of the Community Development/Housing/General Government Committee.*]
- C-2. MINORITY AND WOMEN BUSINESS ENTERPRISE PROGRAM ANNUAL REPORT.
- C-3. HUMAN RELATIONS COMMISSION ANNUAL REPORT.
- C-4. APPROVAL OF COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE SUMMARY OF MINUTES - *December 15, 2009.*

#### GENERAL AGENDA

- G-1. RESOLUTION AUTHORIZING THE CITY OF WINSTON-SALEM TO CONTINUE ITS AGREEMENT WITH THE FERGUSON GROUP AND APPROVE THE FY 2011 FEDERAL AGENDA FOR WINSTON-SALEM/FORSYTH COUNTY.

Mr. Derwick Paige, Deputy City Manager, distributed an amended agenda and noted that this item was a request to continue the City's agreement with the Ferguson Group and its 2010-2011 federal

agenda. Since the City's partnership, the Ferguson group has helped to obtain \$25.87 million in federal funding and in FY 2010, the City received \$1 million for a combined City/County Firearms Training facility. The payment for the contract has already been funded through the FY 09-10 budget, but the contract is renewed based on the calendar year. The draft agenda for 2011 is a continuation of the City's efforts for which funding has already been received or items that were on a previous agenda, with the exception of the Geographic Information Systems and County-wide Regional Park System items. In response to Chair Besse's question, Mr. Paige confirmed that the resolution approves the renewal of the contract for FY 10-11, since it is based on the calendar year.

Council Member Leight requested that Ms. Leslie Mozingo, Ferguson Group, explain appropriation, authorization and legislative initiatives for the new Council Members.

Ms. Mozingo stated that the Ferguson Group is responsible for assisting the City and County with knowing and understanding any federal funding opportunities available, works with staff to understand City and County needs, how those needs fit into the federal cycle, what funding sources are available and when, as well as handling all the paperwork. A federal agenda keeps the City focused so limited time and resources are utilized on projects that are achievable. She also stated that Ferguson Group staff knows what programs to target, within what appropriations bill and how much to request. She further stated that appropriations are awarded on an annual cycle, authorization is an initiative that only presents itself periodically from certain accounts and legislative initiatives are not currently targeted for earmarks or authorization but they are still priorities and are monitored for new opportunities. The Youth Promise Act is a legislative initiative which Congressman Mel Watt spoke highly of, which will help on the policy side to aid the local community with juvenile delinquency and gang initiatives.

Chair Besse noted that the current federal agenda consists of the City's budget priorities that overlap with federal funding opportunities.

In response to Council Member Leight's question, Ms. Mozingo noted that authorization items listed were submitted during the first session of Congress. The Surface Transportation Bill expired September 30, and through a sequence of extensions, it will continue to attempt to obtain a full bill, but that will be difficult due to the size of the bill and funding needed. She also noted that there are a number of initiatives that congressional leadership felt strongly about and wanted to move forward on before mid-term elections, but large items, such as health care reform, have consumed staff's time. She further noted that funding for gang prevention will hopefully be expanded to a City/County-wide effort this year and she is communicating with Winston-Salem Police Department staff to develop a solution that will benefit both entities.

Council Member Adams made a motion to approve the item. The motion was duly seconded by Council Member Taylor and carried unanimously.

G-2. ORDINANCE AMENDING SECTION B OF THE *UNIFIED DEVELOPMENT ORDINANCES* REGARDING STREET STANDARDS GOVERNING VEHICLE AND PEDESTRIAN CIRCULATION - *Proposal of City/County Planning Staff - UDO-195.*

Mr. Paul Norby, City/County Planning Director, stated that staff will periodically bring *Unified*

*Development Ordinances* amendments to the City Council to address any inconsistencies. Last year, a portion of UDO-195 concerning sidewalks was pulled for further consideration but was postponed during the discussion of the tree ordinance.

Chair Besse noted that sidewalks were pulled from the list at his request due to concern that proposed regulations may inadvertently overlook requirements for sidewalks in new non-residential developments, but that concern has since been alleviated.

Mr. Glenn Simmons, Principle Planner, gave a brief presentation of sidewalk requirements.

In response to Council Member Leight's question, Mr. Norby confirmed that even if a small structure is built on a large lot, the builder will be required to place a small stretch of sidewalk on the property, in anticipation of future development.

Council Member Leight made a motion to approve the item. The motion was duly seconded by Council Member Adams and carried unanimously.

#### G-3. REPORT FROM THE COMMUNITY SUSTAINABILITY PROGRAM COMMITTEE.

Mrs. Martha Wheelock, Assistant City Manager, noted that the Community Sustainability Program Committee (CSPC) has worked very diligently over the last several months and representatives would be presenting a report which outlines short term objectives, long term strategies and a brief discussion of its key initiatives.

Mr. Peter Marsh, CSPC member, introduced other members, Mr. Robert Smith, Ms. Cornelia Barr and Ms. Shannon Terrell. He expressed thanks on behalf of the CSPC to City staff for their support and recognized members of staff who have participated in the process and who attended meetings. Mr. Marsh presented the CSPC mission statement and noted that it had formed subcommittees in coordination with the International Council for Local Environmental Initiatives standards. He identified short-term initiatives that could be completed fairly quickly, such as branding sustainability efforts around the word "go." Those strategies are as follows: Go Bloom/Go Local which supports environmentally friendly initiatives such as community gardens, composting and sustainable farming; Go Fuel Efficient; Go Recycle which encourages reducing the amount of materials going into landfills through the increase of residential, multi-family and business recycling; Go Squiggle which encourages residential, commercial and industrial energy conservation and the promotion of weatherization programs; Go Lead leadership summit for community leaders to discuss sustainability; Go Expo community event and lecture series; Resource Center collaborative partnership between the City and local academic institutions and other educational activities/partnerships. The CSPC will also monitor the City's progress on greenhouse gas emissions and stressed the need for a Sustainability Program Manager.

Chair Besse noted that Council previously approved \$300,000 in funding for sustainability efforts.

Mr. Marsh noted that some long term strategic initiatives will be centered around land-use and transportation planning.

Council Member Leight congratulated CSPC representatives on the report and for a job well done.

In response to Chair Besse, Mrs. Wheelock stated that staff would bring an action item regarding sustainability to the Committee in February and noted that the CSPC would appreciate any feedback, recommendations or suggestions.

Council Member Adams congratulated the CSPC on a job well done and noted that its committee members have the heart and passion to see the City take the next step toward sustainability. She also suggested that all Council Members read the report thoroughly as it affects the current environmental situation, as well as the future.

Council Member Taylor expressed thanks to the CSPC for its work, commitment of time and efforts.

In response to Council Member Leight's question, Mrs. Wheelock stated that staff is currently interviewing candidates for the sustainability director position and should have a recommendation by February.

Mr. Lee Garrity, City Manager, noted that CSPC representatives were also involved in the interview process.

#### G-4. DISCUSSION OF CVS PRESCRIPTION DRUG DISCOUNT PROGRAM.

Mrs. Wheelock stated that in early 2009, Council Members attending the National League of Cities (NLC) Conference brought back information on the CVS Prescription Drug Discount Program for cities who are members of the NLC. The program gives citizens with little or no insurance, or no pharmacy benefits the ability to obtain discount prescriptions at participating pharmacies. As a participant, the City provides its logo to be placed on the card and the cards are then placed at various locations, where they are free to the public. The City completed its due diligence last spring, consulted with other municipal participants of the program and the item was approved by the Community Development/Housing/General Government Committee and adopted by Council. The program was launched in mid-October 2009, and as of November 2009, there had been 13 individual users and 21 prescriptions filled. No information is collected on the individual users, the prescription obtained or which pharmacies are visited. In response to Chair Besse's question, Mrs. Wheelock stated that the card does not have to be activated. She also stated that usage data for the City is provided to CVS Caremark, which is then forwarded to the NLC. A local pharmacist expressed concerns, which were outlined in the agenda book, as to who was benefitting from the program, how his independent business might be affected and the use of information by CVS to mine customers. Staff contacted the NLC to address Mr. Marley's concerns and its response letter was provided in the agenda book.

Council Member Adams noted that this program is similar to alumni of an academic institution being offered specific credit cards or insurance participation, but that an independent business owner does not have that same ability. She also noted that in the right market, CVS will receive more business or customers.

Mrs. Wheelock noted that in June, City Council's discussion centered around the ability to offer access to someone who may not otherwise be able to obtain a prescription.

*Council Member Clark in at 5:08 p.m.*

In response to Council Member Leight's question, Mrs. Wheelock stated that the card may be used to obtain prescription medication in the absence of health care coverage through participating pharmacies and a flyer is attached to the card outlining those participating pharmacies.

In response to Chair Besse's question, Mrs. Wheelock stated that she assumes the card will allow the purchase of generic prescriptions but the difference in drug tiers was not addressed.

In response to Council Member Clark's concern, Mrs. Wheelock stated that the NLC indicated that no information is captured through the program.

Mr. Dave Marley, 231 Hollow Tree Court, President and CEO of Marley Drug, expressed his concern that when information was presented to the City Council, there was no question about what CVS would gain from the program. He stated that the only reason the card exists is to funnel uninsured business into CVS' mail order program. He also stated that there are serious credibility issues with CVS, in terms of fraud cases and a current on-going Federal Trade Commission (FTC) investigation into the CVS Caremark merger because of data mining. He further stated that he submitted a dummy file for himself to determine what prices were being offered and received two prescription transfer coupons, while he has never used nor had prescriptions filled at a CVS pharmacy. Mr. Marley noted that pharmacies are not invited to participate in the program, rather they are mandated to participate. As a pharmacy, he is presented with a contract by CVS Caremark for access to its products and for participation with a host of other pharmacies. He expressed concern that as a small business owner, his tax money is being spent to promote another business over his own and possibly taking revenue out of the city. He provided additional data to Committee Members and noted that there is a discount card program at Marley Drug and users must sign up to be eligible to participate. He also noted that the Winston-Salem Chamber of Commerce and others are encouraging most people to buy local while this card does not. In response to Chair Besse's questions, Mr. Marley stated that when he first opened his store, he signed a Pharmacy Benefit Manager (PBM) contract with CVS but it was not in relation to this program, nor was Marley Drug invited to participate in the program. The contract outlines reimbursement rates, meaning that through Marley Drug's participation with CVS Caremark, the consumer will have access to the same prescription drug rate as insurance companies. Participants using the card at Marley Drug will receive a discount on brand name drugs but not generics. He also stated that PBMs administer drug plans and control what pharmacies are paid and what consumers are charged. PBMs also engage in pricing schemes to inflate generic pricing to encourage consumers to participate in prescription mail order services. He further stated that the problem with mail order prescriptions is that CVS Caremark receives rebate dollars from brand manufacturers because they are incentivized to dispense expensive brand name drugs, and encourage consumers to utilize mail order fulfillment, rather than their local pharmacy.

*Council Member Montgomery in at 5:23 p.m.*

In response to Council Member Leight's question, Mr. Marley stated that CVS Caremark is currently under a non-public investigation by the FTC for harmful business practices including data mining and information sharing. Under Health Insurance Portability and Accountability Act (HIPAA) privacy laws, CVS Caremark is allowed to utilize information collected because it is

viewed as a business relationship with a consumer but the FTC is investigating to determine whether or not that is anti-business and anti-competitive.

In response to Council Member Clark's question, Mr. Marley stated he was unaware if other locally-owned pharmacies have a discount program similar to his, and specifically requested that the City terminate its participation in this program.

In response to Chair Besse's question, Mrs. Wheelock stated that after staff's inquiry to the NLC, they were provided with a letter addressing the same concerns from another municipality. The letter did specifically indicate that neither CVS nor the NLC collected information from participants in the program.

Chair Besse requested to know if it would be illegal to send follow up solicitation to a consumer to participate in the mail order prescription program.

Mr. Alan Andrews, Assistant City Attorney, stated that he suspects CVS Caremark has a business associate agreement, which under HIPPA law, allows for an agreement between the acquirer of information and the user of information that is an exemption to HIPPA law. CVS Caremark has probably signed a business associate agreement which is essentially a waiver by the consumer to allow the acquirer of the information to be used. This is not illegal under HIPPA law, but it may be illegal under FTC law as a use of information for anti-competitive reasons.

Chair Besse requested that the legal questions mentioned be reviewed and reported back to the Committee.

Council Member Clark expressed concern that it may appear as though the City is participating in a program supporting one pharmacy over another and questioned if it would be possible to advertise other pharmacy's programs in the same places as the CVS Caremark program is displayed.

Council Member Leight expressed concern with a possible violation of law through the collection and use of data that should be confidential.

Ms. Joycelyn V. Johnson, 2426 Edison Court, stated that she listened to the presentation at the end of 2008 and felt that this program provided an opportunity to help a citizen with little or no insurance coverage to be able to afford a prescription medication. She also stated that she would not want to support a program causing trade issues or unfair competition, but many independent pharmacies are not located in the communities with the greatest need. She further stated that barring no trade violations are discovered, that the City should continue to participate in this opportunity for prescription savings for those citizens who need it most. Ms. Johnson noted that there is only one independent pharmacy in the entirety of the East Ward.

Council Member Taylor concurred that there are not independent pharmacy locations viable for each citizen to utilize due to geographic location. He also questioned if it would be possible to promote other locally-owned pharmacies in the interim until further information is presented.

Chair Besse requested that this item be brought back to the February 9 meeting for further

consideration along with a report on promoting other locally-owned pharmacies.

ADJOURNMENT: 5:41 p.m.