

SUMMARY OF MINUTES

COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE

5:00 P.M., TUESDAY, NOVEMBER 9, 2010

COMMITTEE ROOM

ROOM 239, CITY HALL

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 Derwin L. Montgomery
Council Member Robert Clark (in at 5:58 p.m.)

Chair Besse called the meeting to order and stated that, without objection, the Committee would consider the Consent Agenda. Council Member Taylor requested to pull Items C-1(b), C-2(a & b). No other items were removed for consideration.

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

CONSENT AGENDA

C-1. 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. Primitavo Gonzalez Jimenez 2628 Newland Drive
- c. Tamicko and Edward Richardson 1446 Harding Street
- d. E. V. Ferrell, Jr. 1708 Rockford Street

C-2. 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*].

- c. Robert and Preshia Mcrae 848 W. 12th Street

- d. Juan Jose and Selso Nava Sanchez 1705 Center Street
 - e. James A. Thomas Jr. and 2000 Pleasant Street
John E. Thomas
- C-3. RESOLUTION AMENDING ARTICLE I CONDITIONS OF EMPLOYMENT, SECTION 14 REDUCTION IN FORCE OF THE CITY OF WINSTON-SALEM PERSONNEL RESOLUTION.
- C-4. APPROVAL OF COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE SUMMARY OF MINUTES - *October 12, 2010.*
- C-1. 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].*
- b. Truliant Federal Credit Union 728 Goldfloss Street
- C-2. 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. Truliant Federal Credit Union 1003 Goldfloss Street
 - b. Truliant Federal Credit Union 1007 Goldfloss Street

Chair Besse noted that as each of these properties were owned by the same entity, Items C-1(b), C-2(a&b) would be considered together.

Mr. Bruce Bailiff, Code Enforcement-Project Supervisor, provided background information on each of the properties.

Mr. Ian Phillips, Truliant Federal Credit Union, indicated that these properties are currently under contract to be sold to Goler Community Development Corporation (CDC) and should close by December 2. It is Goler CDC's intention to rehabilitate the properties and sell them.

Council Member Leight noted that these properties are contributing structures within an historic district and there may be some discussion with the State as to their historic designation.

Council Member Taylor made a motion to continue these properties to the December meeting. The motion was duly seconded by Council Member Leight and carried unanimously.

GENERAL AGENDA

- G-1. CONSIDERATION OF LEGISLATIVE PACKAGE FOR THE NORTH CAROLINA GENERAL ASSEMBLY SESSION THAT BEGINS ON JANUARY 26, 2011.
- a. RESOLUTION ADOPTING THE CITY OF WINSTON-SALEM'S LEGISLATIVE PROGRAM FOR THE 2011 LEGISLATIVE SESSION.
 - b. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINSTON-SALEM, NORTH CAROLINA SUPPORTING THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES EFFORTS REGARDING ANNEXATION.
 - c. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINSTON-SALEM, NORTH CAROLINA SUPPORTING THE ISSUANCE OF LOCAL PRIVILEGE LICENSES.
 - d. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINSTON-SALEM, NORTH CAROLINA SUPPORTING PEDESTRIAN AND BICYCLE FRIENDLY PROJECTS.
 - e. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINSTON-SALEM, NORTH CAROLINA FINDING THAT A LOCAL PREFERENCE ON CONTRACTS LET BY INFORMAL AND FORMAL BIDS IS NECESSARY TO STIMULATE THE LOCAL ECONOMY.
 - f. AN ACT AMENDING STATE ENABLING LEGISLATION FOR CITY-COUNTY PLANNING AND ZONING IN FORSYTH COUNTY AND WINSTON-SALEM, NORTH CAROLINA.
 - g. AN ACT AMENDING N.C.G.S. § 40A-42 FOR THE CITY OF WINSTON-SALEM TO INCLUDE PUBLIC TRANSPORTATION SYSTEMS.
 - h. AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO ESTABLISH A LOCAL PREFERENCE FOR CONTRACTS LET ON BIDS.
 - i. AN ACT TO EXTEND THE POLICE JURISDICTION OF THE CITY OF WINSTON-SALEM TO ENCOMPASS INCORPORATED MUNICIPALITIES WITHIN THE COUNTY OF FORSYTH.
 - j. AN ACT AUTHORIZING CERTAIN CHANGES TO N.C.G.S. §158-7.1 RELATING TO LOCAL DEVELOPMENT FOR THE CITY OF WINSTON-SALEM.
 - k. AN ACT AMENDING N.C.G.S. §159-32 AUTHORIZING WEEKLY DEPOSITS.
 - l. AN ACT AMENDING N.C.G.S. §160-319 REGARDING UTILITY FRANCHISES.

- m. AN ACT AMENDING SESSION LAW 2006-246, SENATE BILL 1566 TO ALLOW THE CITY TO FOLLOW THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION'S BEST MANAGEMENT PRACTICES FOR LINEAR TRANSPORTATION PROJECTS SUCH AS ROADS AND GREENWAYS.

ADDITIONAL RESOLUTION FOR LEGISLATIVE PACKAGE

RESOLUTION SUPPORTING THE N.C. METROPOLITAN MAYORS' COALITION
2011 ADVOCACY AGENDA

Council Member Leight expressed concern that a local preference law for the City could cause other municipalities to seek the same legislation and create problems for the City's ability to perform in other municipalities.

In response to Chair Besse's inquiry, Mrs. Angela I. Carmon, City Attorney, confirmed that the chronic violator provision was drafted based upon language in the Environmental Code and the State's Nuisance Abatement Chronic Violator provision.

Chair Besse questioned if the chronic violator provision was limited to the previous calendar year because in some circumstances, a property may be cited in October and November, then the following February, which would mean that it would not be treated as a chronic problem.

Mrs. Carmon noted that the language was chosen because other similar bills passed the General Assembly without difficulty but staff could expand the time period to be longer than the previous calendar year.

Chair Besse suggested that perhaps the previous 16 months could be considered to encompass more than one growing season to see if there really was an established chronic problem.

Mrs. Carmon noted that staff would review this suggestion and determine a reasonable period of time.

In response to Chair Besse's question, Mrs. Carmon clarified that the clawback provision clarifies that a developer has to abide by bidding laws with respect to economic development projects. In regards to his question regarding the term "franchise," she stated that staff discussed with the North Carolina School of Government and reviewed an ordinance passed by the Town of Lewisville, in which they will require prior approval before the City expands water/sewer service in Lewisville, which should be addressed in an agreement. This ordinance requiring their approval before further expansion, precludes the City from extending service to residents nearby, but outside the Town of Lewisville. Staff has indicated to them that they do not have the authority to require such approval. She also stated that the proposed legislation would affect a municipality's authority to regulate the expansion of water/sewer service within and without its extra-territorial jurisdiction.

Chair Besse confirmed that the legislation, if approved, will apply both inside and outside the town limits of Lewisville. As the responsible entity, he expressed concern that planning decisions not be overridden as to where it is appropriate to end water/sewer service.

Mrs. Carmon noted that staff's concern is that it entered into an arrangement to extend services and have a consolidated system as the town previously requested it. For Lewisville to now say that the City cannot expand water/sewer service after it has expended the resources to install lines with intentions of offering that service, seems unfair to the City.

In response to Chair Besse's questions, Mrs. Carmon stated that the limitation will apply whether or not initial lines have been placed in an area. She also stated that staff could modify the language of the act so that if the legislation is approved, the municipal authority will not be allowed to pick and choose what areas within its jurisdiction may receive service.

Mr. Gregory M. Turner, Assistant City Manager/Public Works, noted that typically for a city or town wishing to have a different rate structure or rules to apply to its residents, it can request this of the Utility Commission (UC) and is typically approved. Lewisville has preempted that process by requesting a set of rules to apply not only to their residents but also those outside of Lewisville whose lines of service go through Lewisville. Their current ordinance does not apply, if their intended action to control development beyond their city limits is approved. Staff proposes that type of philosophy be prohibited via legislation and that communities inside Forsyth County who are part of the consolidated system, must work within contract provisions and impose special rules on residents if they wish to have them. The essential objection is to the use of a franchise versus an agreement.

In response to Chair Besse's question, Mr. Turner stated that staff previously discussed this concern with Lewisville representatives and UC staff advised them that the City did not have the authority to regulate what happened beyond their jurisdiction, rather it was up to the County, responsible for zoning, and Lewisville passed an ordinance to try to establish that authority.

In response to Chair Besse's inquiry, Mrs. Carmon stated that a consensus is not required to forward a proposed local bill to the legislature.

In response to Council Member Taylor's question, Mrs. Carmon summarized the additional information presented regarding alcoholic beverage container (ABC) stores, and noted that when the ABC Commission is reviewing the placement of new stores, it will consider the distance to an existing store. The statute regarding the location of ABC stores does not stipulate proximity to schools and churches, but the provision related to retail ABC permits does. She also noted that retail establishments that sell alcohol and ABC stores have a separate set of rules. She further noted that in 2009, City Council submitted a bill regarding the location of ABC stores and through the public hearing process, objections can be submitted regarding the location of stores.

Council Member Leight expressed concern that if the local preference act is granted, she is worried that there may be an unintended consequence making it harder for businesses in other parts of the state to do business within the City and that other municipalities may follow suit and prohibit local businesses from doing business elsewhere.

Mrs. Carmon noted that staff could minimize that concern with the inclusion of a dollar limit for certain projects, such as those with an estimated cost of \$200,000 or less, or stipulate that it only apply to service contracts or construction projects.

Council Member Leight noted that Council Member Clark expressed confidence at the Finance Committee meeting that this item will not pass through the local delegation.

Mrs. Carmon noted that when previously discussed, the City had the support of State Representatives Earline Parmon and Larry Womble and would assume their support is still viable.

In response to Council Member Adams' question, Mrs. Carmon stated that Winston-Salem would be the first municipality to have such a law and other municipalities have inquired about it. She also stated that should Council Members have additional comments, questions, or concerns, they should feel free to contact her.

Ms. Nancy Gould, 195 Executive Park Boulevard, stated that she contacted Mr. Keith Huff, Stormwater Director, regarding less strict rules for stormwater regulations for linear projects such as roadways and greenways. These are usually smaller projects, with less room to work but there is still a need to have relief for stormwater. She questioned whether or not similar relief could be requested for private citizens and developers when doing similar projects.

Chair Besse noted that it's not so much the size of the project but rather the linear nature that drives this request.

In response to Chair Besse's question regarding application of the State statute, Mr. Turner stated that this request of the legislature is to affirm in statute, a provision for cities to use the North Carolina Department of Transportation stormwater management devices as opposed to those devices designed for rectilinear construction. If a private developer were to construct greenways or roadways, or another linear transportation project, then as staff has proposed it, they should be able to use same devices.

Mrs. Carmon noted that staff will ensure this item is clear before it is presented again in December.

G-2. PRESENTATION ON THE PURCHASING AND MINORITY AND WOMEN BUSINESS ENTERPRISE PROGRAM.

Mr. Jerry Bates, Purchasing Director, gave the presentation on the City's Purchasing program.

In response to Council Member Leight's inquiry related to differences in bid amounts for any given project, Mr. Bates noted that it could be related to the inexperience of a contractor who may not be as familiar with a product or the scope of a job. He also noted that Mr. Mike Sloan, Buyer for the Purchasing Department, goes to extreme efforts to ensure contractors have adequate information and that there is adequate advertisement of a given bid.

In response to Council Member Adams' question, Mr. Clark Case, Assistant Financial Officer/Treasurer, stated that Cherry, Bekaert and Holland is the external auditor for grant compliance, financial controls and financial statement viability, and it performs an audit annually. The department of Internal Audit has audited the Purchasing Department within the last year, and audits for internal general procedures, business efficiency, and ensures best practices are being followed.

Council Member Clark in at 5:58 p.m.

Mr. Clark noted that there were no negative findings from the external auditor's report as well as no material findings. There were also no internal findings from the audit but rather some recommendations for process improvements.

Mr. Garrity noted that the official audit report will be presented in December.

Council Member Adams requested a copy of the internal and external audit reports.

In response to Council Member Taylor's question, Mr. Bates stated that the vendor application is the same as the contractor application as they request the same information, such as business name, licensing information, and products and/or services provided.

In response to Council Member Montgomery's inquiry, Mr. Garrity indicated that funding for the City/County Purchasing Department is based upon an agreement that is recalibrated each year based upon the amount of activity for the City in comparison to the County. Currently, approximately 25% of the work is directed to the County.

In response to Council Member Montgomery's question, Mr. Bates stated that he misspoke and the City's practices for meeting Minority and Women Business Enterprise (M/WBE) goals for informal bids are not required by State law, but they are part of the City's policy.

In response to Council Member Taylor's inquiry, Mr. Bates noted that the vendor application is available on the Purchasing website, but vendors can also receive one by visiting the department, or through a phone, mail, email or fax request.

Mr. Ruben Gonzales, Development Director, noted that vendor applications are available on the Development website as well. He then gave the presentation on the City's M/WBE program.

In response to Council Member Leight's question, Mr. Gonzales stated that M/WBE goals are forecast or set for a particular job based upon the scope of the work involved and the number of able businesses within the community. He also stated that goals are typically set based upon the local listing of M/WBE vendors.

Council Member Taylor expressed his thanks to Mr. Gonzales for his efforts in setting attainable goals for MW/BE participation for the City and indicated that he liked the layout of the website. He suggested that eventually, all open bids should be listed on the website.

In response to Council Member Taylor's questions, Mr. Gonzales stated that the certification process verifies that a business is minority or women owned and a company's level of experience or expertise is not certified. He also stated that staff agreed to follow the state-wide certification process, which is positive for local minority subcontractors as one certification is valid throughout the state. He further stated that a local certification process may not align with State statutes, but staff will review a possible process.

Council Member Adams requested a concise report of the top ten M/WBE businesses, broken down by jobs performed, contractor, who has won the bids and who has not, for the previous year. She also requested a listing of projects on which goals were not met, any Section 3 projects and who won those bids. She suggested that staff coordinate with local colleges and universities as there is training available within those institutions. She further requested to know the number of people who have attended M/WBE workshops and efforts staff is making to further reach out to those contractors.

In response to Chair Besse's questions, Mr. Gonzales indicated that there is a list of State certified M/WBE contractors available online which can be broken down to see various aspects, such as location. He also indicated that there is information outlining which local M/WBE subcontractors have won bids within the City and the information Council Member Adams requested could be easily compiled.

Council Member Leight expressed concern that qualifications for subcontractors is not addressed and questioned if there was any listing of vendor qualifications.

Mr. Gonzales noted that the burden lies with the general contractor to perform due diligence and verify that any subcontractors are capable of performing the work. In response to Council Member Leight's question, he noted that capacity or ability certification would be difficult as experience varies drastically across many trades.

Chair Besse noted that local certification might be useful for contractors but would create an additional barrier for M/WBE contractors rather than expanding their opportunities.

Council Member Leight noted that there appears to be a disconnect between the State listing of certified vendors and M/WBE vendors within the city.

Council Member Montgomery stated that quantitative data would be helpful for Council Members to review. He also stated that a local certification process would create an additional burden and possibly decrease the number of local, qualifying M/WBE contractors.

Mrs. Carmon indicated that a local certification process may be outside of what is allowed by the statute.

Council Member Taylor indicated that he believes a local certification process should not judge anyone's ability to do the work, rather he would like to see a list of those local vendors who could do the work.

Chair Besse noted that it may be more difficult to obtain State certification if a business is owned by a woman or a minority as they must prove the business is not majority owned.

Mr. Gonzales indicated that the State has an application and review process before any vendor is certified.

In response to Council Member Clark's question, Mr. Gonzales stated that the application process for State certification is not difficult, but there is a process to follow.

Council Member Clark noted that qualifications of a vendor may be of concern to some but bear in mind, there are certain trades that require licenses to ensure a certain level of competence. The greatest challenge is ensuring that there is minority or women business participation in appropriate fields. He also noted that there is a challenge to identify vendors who provide a variety of services and encourage participation from a variety of fields.

Mr. Gonzales indicated that there is a listing available on the website of the types of products and services the City purchases within a given year, so any contractor or vendor can view that list and bid accordingly.

Mrs. Carmon read Section 143-128.4(e) of the State statute regarding historically underutilized businesses, which are the same as minority businesses.

Chair Besse clarified that the State statute indicated that if a business is not certified and a part of the State listing, it cannot be counted against the City's M/WBE goals.

In response to Council Member Clark's question, Mr. Gonzales noted that some cities have reverted to a small business program only, but it is not race or gender specific, which could be harmful to M/WBE businesses.

Chair Besse requested that staff compile the list information and the total number of contractors, projects and figures for the last couple of years to be distributed to Council Members. He suggested that Council Members review the information and bring suggestions to the Committee on methods of increasing involvement of M/WBE businesses in January or February.

In response to Council Member Montgomery's question, Mr. Garrity noted that staff will bring a report on the Small Business Loan Program in January.

G-3. DISCUSSION OF POTENTIAL NEIGHBORHOOD MEETING TEXT AMENDMENT(S).

Chair Besse stated that by consensus, this item will remain in Committee until December.

ADJOURNMENT: 6:54 p.m.