

SUMMARY OF MINUTES

PUBLIC SAFETY COMMITTEE

5:45 p.m., Monday, November 14, 2011

COMMITTEE ROOM

Room 239, City Hall

MEMBERS PRESENT: Mayor Allen Joines (left meeting at 7:02 p.m.)
Council Member Vivian H. Burke, Chair
Council Member James Taylor, Jr., Vice Chair
Council Member Wanda Merschel
Council Member Derwin L. Montgomery (left meeting at 7:11 p.m.)

OTHERS PRESENT: Council Member Denise D. Adams
Council Member Dan Besse
Council Member Robert Clark (left meeting at 6:20 p.m.)
Council Member Molly Leight

Chair Burke called the meeting to order and welcomed staff and citizens to the meeting.

Chair Burke stated that the Committee would first consider the Consent Agenda and asked if anyone wished to remove any items for discussion. No items were removed.

Council Member Taylor made a motion for approval of items on the Consent Agenda. The motion was duly seconded by Council Member Montgomery and unanimously carried.

CONSENT AGENDA

- C-1. ORDINANCE AMENDING SECTION 42-122(F) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS ON CITY STREETS - *Meadowwood Drive, Gyddie Drive, Lyndhurst Avenue, Neighborhood Limits: Century Oak Lane, Shady Maple Lane, Century Oaks Court, Ashton Place Drive, Ashton Place Circle, Wild Dogwood Lane, Wild Spruce Court, Chestnut Hill Lane, Chestnut Hill Court, Poplar Grove Road, Neighborhood Limits: Ashlyn Drive, Jansu Lane, Bevlon Court and Timothy Lane.*
- C-2. APPROVAL OF PUBLIC SAFETY COMMITTEE SUMMARY OF MINUTES - *September 12, 2011.*

GENERAL AGENDA

Chair Burke stated that prior to consideration of the first item on the General Agenda, the Committee has received an additional item which will be considered at this time.

Additional Item: RESOLUTION APPROVING AN ENCROACHMENT AGREEMENT FOR OCCUPY WINSTON-SALEM

Chair Burke recognized Mr. Garrity for presentation of this item.

City Manager Lee Garrity distributed copies of this item. He explained that in recent weeks, Occupy Winston-Salem (OWS) has sought and received lawful permits and held peaceful, civil protests. Approximately a week ago, OWS contacted the City to request a location where the group could camp out as has been done in other communities. He stated that staff has looked at locations other than parks (camping in parks is prohibited by City ordinance) which would be safe and secure. A former Winston-Salem Transit Authority parking lot at the corner of Seventh and Liberty Streets appears to be the best option. The surrounding tenants, including a day care center, have been advised of this request. Mr. Garrity stated that the proposal is specific in its requirements: no more than 48 people to be on-site, no more than 24 overnight occupants, no more than 12 tents, and other requirements to ensure safety and sanitation. He advised that this is a 30-day proposal with an option for renewal. However, if there are any violations, the City would move immediately to terminate the encroachment agreement and ask the group to vacate the property.

Chair Burke stated that there were a number of citizens in the audience who wished to address the committee. She asked them to come forward and identify themselves for the record.

Mr. Andrew Hobbs, 914 Carolina Avenue, spoke of behalf of OWS. He stated that this group has discussed the restrictions outlined in the proposed encroachment agreement and have several concerns they wish to raise. With regard to the early termination clause, Mr. Hobbs commented that it appears that the group could be evicted over something as simple as littering. He proposed a revision regarding early termination:

The permission to use the site may be terminated by the City if the City finds the OWS group as a whole violated any of the use provisions in this agreement. OWS to be given 24 hours notice of early termination and appeals may be made to the City Manager. Individuals who violate the use shall be banned from the site, but the group as a whole should not be punished for the actions of individuals. The group will cooperate fully with the City to ensure compliance with the use restrictions and to expel disruptive individuals.

With regard to public official access, Mr. Hobbs suggested the following language:

Where safety and security concerns permit, City officials will make reasonable efforts to avoid late night and early morning inspections as to avoid undue disturbance during normal sleeping hours.

Mr. Hobbs advised that at the time representatives of OWS met with City staff to work out details, the group was unaware that one of its members is an authorized food vendor, with a cooking unit and a refrigeration unit, and has a permit issued by the County Health Department. He stated that the group was greatly concerned over the inability to use any sort of heat for warmth, and to a lesser

extent, the inability to cook on-site. Recognizing the dangers of fire, the group would like to work with the Fire Marshal of the City to determine the safest way to provide heat. Mr. Hobbs commented that there is no interest in selling food, but would appreciate working out a compromise for safe and sanitary cooking. He stated that it would also be helpful if the City would provide an emergency telephone number for any questions or concerns which do not require the urgency of a 911 call. Mr. Hobbs stated that all other provisions of the agreement appear to be acceptable to the group, and again expressed his appreciation to the City.

Chair Burke stated that she would like staff to comment on Mr. Hobbs' suggestions, but first she wanted there to be a clear understanding that other groups may come in and make a similar request and the City will need to be consistent with its response.

Assistant City Manager Gregory M. Turner explained that the issues regarding the mobile food unit related to what would be allowed by the Health Department, which is a County function; however, the City Fire Marshal had a strong concern about the risk of fire associated with heating sources, including flammable material and other fuel sources such as generators.

Mr. Garrity advised that the suggested revision to the termination clause is workable and reasonable. Obviously, there will have to be some discretion with regard to individual behavior as opposed to a group disturbance.

Speaking next was Mr. Ethan Smith, 606 Mulberry Street, also a member of the OWS group. He asked permission to distribute copies of the proposed revisions.

Chair Burke invited Mr. Smith to do so, and asked for questions or comments from Council Members.

Council Member Merschel asked Mr. Garrity if there would be sufficient time between now and the Council meeting on November 21 for staff to review these proposed revisions.

Mr. Garrity and Mr. Turner advised that the main concerns are with regard to the cooking unit, which is under the purview of the Health Department, and heating sources. There may also be issues with the number of people on the site, since a large crowd may become unmanageable.

Council Members Montgomery and Adams commented on the rights of citizens to be able to exercise freedom of speech; however, breaking of laws will not be tolerated.

In response to Council Member Adams, Mr. Turner stated that the closest business to this location is a day care center. He has spoken with the owner and manager and while they expressed no specific concerns, they are very interested as to how this may affect their property.

Chair Burke and Council Member Leight agreed completely with OWS exercising freedom of speech, but reiterated that it should be noted that any group would be afforded the same opportunity.

Council Member Merschel stated that she believes that additional discussions need to occur before any action is taken. She therefore made a motion to hold this item in Committee until December.

Chair Burke asked for a second to the motion. Hearing none, she declared the motion dead for lack of a second.

Mr. Garrity and Mr. Turner responded to questions. Mr. Turner advised that the City would incur some expense with erection of a fence (materials already owned by the City) and Sanitation collection, which would be approximately \$20 to \$30 per month. As far as cooking on the site, Mr. Turner repeated that this would be a decision of the Forsyth County Health Department.

Council Member Besse expressed his opinion that another question before the Council is whether it wants to establish a process for an extended public forum. Since this could not be considered subsistence camping, the group may have to give up the request for on-site cooking.

Mr. Smith advised that OWS would be more than willing to work with staff on the proposed revisions at a later date, but expressed the group's eagerness to begin camping out as soon as possible.

Mr. Garrity stated that it would be possible for the group to begin its activity with the restrictions recommended by staff with revisions to the change in termination and undue interruption during normal sleeping hours and bring the other issues regarding fire safety and cooking back to the Committee in December after consultation with the Health Department and Fire Marshal.

Chair Burke invited comments from the public.

Mr. Richard Miller, 110 Oakwood Drive, expressed concerns about the effect this action will have upon the Downtown Arts District. He stated that downtown has come a long way and any negative publicity, either real or perceived, could have a very detrimental effect.

Mr. John Watson, 700 Miller Street, commented that this agreement appears to have a lot of ambiguous language and sounds fine, as long as everything goes well, which he hopes is the case, but there is a lot of opportunity for the situation to get out of hand.

Mr. Garrity responded that if problems occur, the group will be asked to vacate the premises.

Council Member Merschel asked if the group would be amenable to reduce the "occupy" time in order to give time for staff to work out any ambiguities. She suggested two weeks.

Mr. Thomas Linebach, 580 Tobacoville Road, Rural Hall, stated that the OWS group also supports a vibrant downtown and plan to support local businesses.

Ms. Sally Hersch, 1831 Brantley Street, commented that this group has very good intentions and it would be a good experience to camp out and be closer to the inner city to learn more of what citizens can do to have a voice.

Council Member Taylor made a motion for approval with initial term limited to 14 days, with the option of renewal by Council. He included in his motion approval of the revision of the early termination clause as recommended by OWS and reasonable public official access, also as recommended by OWS.

Council Member Merschel: Second.

Mayor Joines offered a friendly amendment to the motion to set the initial term to expire on Tuesday, December 6 after the first regular meeting of the Council in December.

Council Members Taylor and Merschel accepted this friendly amendment to their motion and second.

The motion as amended was unanimously carried.

Council Member Montgomery asked that this item be placed on the Public Safety Committee's December agenda.

Chair Burke stressed that it is in the best interest of every citizen to make sure that this is a peaceful event.

(Council Member Clark left the meeting at 6:20 p.m.)

G-1. ORDINANCE AMENDING CHAPTER 38, SECTION 38-10 RELATING TO POSSESSION AND DISCHARGE OF FIREARMS.

City Attorney Angela Carmon explained that this ordinance amendment is in response to the North Carolina General Assembly's passage of a bill to allow concealed handguns in municipal parks except for recreational facilities, provided that the municipality adopts an ordinance prohibiting the carry of concealed handguns in or on said recreational facilities and posting an appropriate notice on the premises. She pointed out that not only does this proposed amendment make the City's ordinance consistent with the legislation, it also defines the terms utilized in the legislation in an effort to provide a clearer understanding as to where the possession of concealed handguns is prohibited.

Council Member Leight urged the committee to follow the lead of the Recreation and Parks Commission in voicing opposition to the legislation.

Mayor Joines commented that he agreed with Council Member Leight and emphasized that while legislation was not requested nor supported by the City, it is necessary for the Council to make the best of a difficult situation and approve the amendment.

In response to concerns raised by Council Members regarding potential liability on the part of the City, Ms. Carmon stated that it was her opinion that the City would not be subject to any liability since it was acting in compliance with State law.

Appearing before the committee at this time was Mr. James Gore, 20 E. Sprague Street. Mr. Gore stated that he was Vice Chair of the Recreation and Parks Commission and he read the following motion adopted by the Commission at its November meeting: "The Winston-Salem Recreation and Parks Commission opposes the N.C. General Assembly's actions that have resulted in the change to the City of Winston-Salem's policy on concealed handguns in the parks. The legislation is an overreach by the General Assembly and a usurpation of the elected authority of City Council to determine policy within its jurisdiction."

Chair Burke remarked that one of the City's main priorities is the protection of its citizens, and while no one agrees with this legislation, the City has no control over actions of the General Assembly.

Council Member Merschel made a motion for approval.

Chair Burke asked for a second to the motion. Hearing none, she declared the motion dead for lack of a second. She stated that this item will be forwarded to Council without a recommendation.

G-2. DISCUSSION OF PROPOSED SIDEWALK CAFE ORDINANCE.

Mr. Ritchie Brooks, Director of the City's Community and Business Development Office, stated that staff has held meetings with a coalition of downtown businesses and residents as well as the Downtown Police Bike Patrol, Downtown Winston-Salem Partnership, and the Downtown Restaurant and Club Roundtable to come up with a proposal regarding sidewalk dining. He stated that staff is seeking guidance from the Committee on how the City should proceed.

Council Member Merschel asked if the current proposal is more restrictive than the original, and she was advised by Mr. Ken Millett that the original proposal provided for a 2 a.m. closing Sunday through Wednesday. This proposal sets the closing time during those days to 1 a.m.

Council Member Merschel also noted the restrictions for dumping glass and limits sidewalk dining to the Central Business (CB) zoning district only. She stated that this appears to balance concerns of business owners and residents.

Mr. David Poythress, 922 West End Boulevard, requested to speak. He stated that he owns a business at 315 West Fourth Street and he has never asked for, nor received, financial assistance from the City. He commented that downtown residents made a major difference in bringing vitality to what was once a deserted downtown. He expressed concern that the guidelines being proposed were drafted by business owners for their own benefit, and stated that he believed this is not so much a sidewalk dining issue as it is a sidewalk drinking issue late into the night. Mr. Poythress recommended that any policy be reviewed first by a more diverse group of citizens.

In response to Chair Burke, Mr. Garrity stated there was no particular urgency about this item, although it would be good to have something resolved. However, it is an informational item at this time.

Council Member Leight asked for a map of the downtown indicating the PB and CB zones.

Chair Burke asked if anyone else in the audience wished to be heard.

Ms. Grace Andronica, 1732 Meadowbrook Drive, explained that she served on the Board of One Park Vista and formerly served on the Board of Piedmont Leaf Lofts. She stated that from her personal observations, the crowd that remains downtown after 11 p.m. is primarily a drinking crowd, and could have a negative influence on property values and potential residents. She suggested that a

committee be formed to openly discuss what atmosphere the City wants to promote in the downtown area. She commented that if businesses want to stay open late at night, at least have their patrons inside their establishments and not out on the sidewalks.

Mr. Richard Miller commented that the issue of noise has been discussed for many years.

Mr. George Bambalis, Kingsbridge Road, stated that he purchased Recreation Billiards on Fourth Street in 1988. He stated that he works hard to maintain a respectful environment at his business inside and outside, because a lot of effort has gone into revitalizing downtown and it is reflected in the improved atmosphere. He stated that he believes that there is an opportunity for cooperation among all interested parties.

(Council Member Montgomery left the meeting at 7:11 p.m.)

Mr. Todd Scott, One Park Vista, Unit 315, expressed his support of sidewalk dining, but believed it should be limited to certain hours. He stated that other cities manage a balance of residents and business interests and he agreed that this could well be a pivotal issue affecting downtown.

Council Member Adams stated that it may be a good idea to revisit the vision of downtown. She requested staff to provide data on police calls and disturbances in downtown over the past three or four years, including a breakdown of date and time.

Council Member Leight stated that she was more than willing to listen to all sides of the issue, and perhaps even include this issue as part of area plans.

Council Member Merschel noted that this could be broken down into two separate concerns: hours of operation/patron behavior and noise.

Council Member Taylor remarked that it is important to the City's success to attract and retain young professionals, and he views a flourishing downtown as a sign of that success.

Chair Burke stated that this item will remain in Committee and will be placed on the December agenda.

ADDITIONAL ITEM

Chair Burke commented that the Committee has concluded its agenda, but there is a citizen who wishes to speak. She asked Committee Members if they wished to hear from Mr. Ghali Hasan.

Ms. Carmon explained that Mr. Hasan has made a claim against the City for damages he claims as a result of the denial of an Exhibition Permit. She stated that her office has thoroughly reviewed his claim and has denied it. Under the current RAMCO Operating Memorandum, there is no process for appeals of this nature. She therefore advised that prior to the committee hearing an appeal, the Council should first consider amending the RAMCO Operating Memorandum.

At 7:34 p.m., Council Member Merschel made a motion for adjournment without hearing from Mr. Hasan. Council Member Taylor seconded the motion, but stated that there should be some way for Mr. Hasan's concern to be addressed.

Remaining at the table were Chair Burke and Council Member Taylor, who agreed to review information regarding Mr. Hasan's concern at a later date.

Mr. Garrity stated that he would provide the information to Chair Burke and Council Member Taylor and schedule a meeting with them very soon.

ADJOURNMENT: 7:41 p.m.