

Salisbury, North Carolina

June 3, 2003

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilmen William (Bill) Burgin; William (Pete) Kennedy; Robert (Bob) Martin; City Manager, David W. Treme; City Attorney, F. Rivers Lawther, Jr.; and City Clerk, Myra B. Heard.

ABSENT: None

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilman Burgin.

PLEDGE OF ALLEGIANCE

Mayor Kluttz led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present. She then recognized Mr. Vernon Crawford who thanked Council and City Manager Treme for their choice of Interim Chief Mark Wilhelm as Police Chief.

OATH OF OFFICE FOR POLICE CHIEF LESTER MARK WILHELM

Mayor Kluttz administered the oath of office to Lester Mark Wilhelm officially swearing him in as Police Chief for the City of Salisbury. Mayor Kluttz presented Chief Wilhelm's new badge to his wife Tonya, who pinned the badge on her husband.

Chief Wilhelm thanked everyone for their support and pledged to do his best in his new position.

RECOGNITION OF SALISBURY POST INTERN

Ms. Erin Boyd was recognized as an intern for the Salisbury Post who will be covering Council meetings for the summer.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following changes to the agenda:

- Addition of two Proclamations
- Deletion of Item 12 – Council to receive update on Trolley.

PROCLAMATIONS

Mayor Kluttz proclaimed the following observances:

TAR HEEL BOYS STATE WEEK June 1-7, 2003

TAR HEEL GIRLS STATE WEEK June 8-14, 2003

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of May 20, 2003 and Special Meeting of May 16, 2003.

(b) Street Closing

Approve closing of 300 block of South Shaver Street between East Bank Street and East Horah Street from 2:00 p.m. until 6:00 p.m. June 7, 2003 for Gray's Chapel Church Youth Ministry "Youth Explosion" event.

(c) Acting City Clerk

Appoint Swannetta Fink as acting City Clerk June 9-13, 2003.

(d) Group Development Site Plan G-05-94 - Town Creek Commons

Approve G-05-94 Town Creek Commons, outparcel #7 – Austin's Restaurant, 205 North Arlington Street for a 9,310 square foot restaurant.

Mayor Kluttz noted a correction to the Minutes of the regular meeting of May 20, 2003. On page 4 under Audit Contract for Fiscal Year Ending June 30, 2003 the sentence "Mr. Furches reviewed the requirements and noted they were intended to combine all current financial statements onto one statement" should read "Mr. Furches reviewed the requirements and noted the new statements will contain new entity wide financial statements in addition to statements previously presented".

Thereupon Mr. Woodson made a **motion** to approve the Consent Agenda with the corrections as noted. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

GROUP DEVELOPMENT SITE PLAN G-01-73 MITCHELL AVENUE MEDICAL PARK

G-01-73 – Mitchell Avenue Medical Park

1035 Lincolnton Road

Councilman Burgin disclosed to Council that he had submitted, as part of a design build team, to perform work for the project to be discussed. He noted that his office was not selected and asked Council if they preferred him to abstain or participate in the decision process. Mr. Burgin stated that he had been eliminated from the project early on and he has no financial gain from the project. Council agreed by consensus for Mr. Burgin to participate in the discussion, as he has no financial gain and is a valuable member of Council.

(a) Mr. Hubert Furr, Development Services Manager, reviewed a request for the construction of a fourteen thousand (14,000) square foot medical building and parking area at the existing site at 1035 Lincolnton Road. He noted that the property is zoned Limited Office Institutional (LOI).

Mr. Furr pointed out concerns that were brought to their attention during a public hearing held by the staff technical review committee. The concerns were the construction of a third driveway, the location of the building on the lot, and the location of the dumpsters. Mr. Furr told Council that following the Planning Board committee meeting, representatives from the neighborhood, the developers, and the Planning Board committee, negotiated changes to the site plan. The third driveway has been removed, the building has been moved back forty-three (43) feet from the right-of-way to get the building to line up with the existing houses, and the new dumpster has been moved to the existing dumpster site. He pointed out that the landscaping plan meets all the requirements of the Zoning Ordinance.

Mr. Furr clarified that the property is not zoned Residential and this is not a rezoning request but merely a review of the site plan to make sure it meets all criteria. The Planning Board recommends approval as submitted by a 9-1 vote.

Councilman Martin asked about the nature of the existing buffer. Mr. Furr indicated the screen was comprised of large shrubs and exceeds the six (6) feet required.

Mayor Pro Tem Woodson asked about the distance between the buffer and the house located to the right of the property. Mr. Furr stated he did not take a measurement but guessed it was 25-30 feet.

(b) Mayor Kluttz opened the floor for public comments on Group Development Site Plan G-01-73 - Mitchell Avenue Medical Park.

Those speaking in **favor** of the site plan were:

Mr. Gray Stout, 5 Acorn Lane, stated that he was the architect for the project. He noted that he was aware of neighborhood concerns and attempted to design a building that would be compatible with the period style housing as well as make a transition from the heavier commercial uses on Jake Alexander Boulevard and Lincolnton Road to the bungalow style houses in Fulton Heights. Mr. Stout noted the site plan is a revised version of the original design and was changed to try to build consensus for a win-win situation for everyone. He also noted a low brick wall on the neighborhood side that fully screens the cars in the parking lot, and period style light fixtures with directional shields for the parking lot. The dumpster has been relocated to the center of the property and the building pushed back 47.5 feet from the sidewalk, all in response to neighborhood concerns. He also noted

the economic impact of the project, with this \$2 million dollar project adding value to the City's tax base.

Mr. Woodson asked Mr. Gray about the height of the screening wall he described. Mr. Stout answered that it was approximately four (4) feet high.

Dr. Boyd Watts, representing Mitchell Avenue property owners, told Council that when they purchased the property in 1988 it had just been rezoned from BRT and has been BRT and LOI for the past thirty (30) years. He indicated that when the property was purchased no restrictions were placed on them regarding what could be built on the property. Dr. Watts stated that they have paid their property taxes with the understanding that the property could be developed. He noted that in past years he proposed a medical services zoning classification but was turned down. Dr. Watts stated that they have outgrown the present clinic. He noted that the surrounding areas are zoned BRT and there is very little residential directly touching their property. He added that he had contacted the residential neighbors who owned property touching the medical center property and no one had any opposition, and considerable time and money have been spent to get this to suit the neighborhood.

Mr. Martin asked Dr. Watts if the new building would bring additional occupants. Dr. Watts replied that they would spread out what they have now. Mr. Martin commented that the addition of cars should be minimal. Dr. Watts explained there would probably be a few more but not many.

Mr. Enrico Alessandrini stated that he owned property adjacent to the medical office and he did not feel anyone should object to a beautiful building.

Ms. Teresa Miller, 710 Mitchell Avenue and Manager of RoMed Medical Center, stated that she had contacted the City's solid waste office to change the time of day the dumpsters were picked up and the solid waste office indicated that it had received no complaints. Ms. Miller noted the parking lot lighting was installed for security of employees and patients and is installed to shine into the parking lot. She also commented that a concern was raised about the burglar alarm; however, their alarm has not gone off during the past year. She stated that she did not feel the medical office was encroaching on the neighborhood since it was located at the end of the street. She added that she was more fearful of what would happen if the medical office moved and the building was vacant.

Ms. Annie Cole, 805 Mitchell Avenue, indicated she was in favor of the project. She noted that things have changed since she purchased her home in 1972 and she knows they will continue to change. She stated she felt the developers have worked with neighbors by making changes and this would be a beautiful building.

Those speaking in **opposition** to the plan were:

Mr. John Dees, 612 Mitchell Avenue, acknowledged that the property owners have modified the original site plan based on considerations but the issue was the quality of life in residential districts versus growth. He asked Council to delay a decision on the site plan and send it to committee. Mr. Dees indicated that no one can determine the ultimate impact on the neighborhood but there are things that could be done to mitigate the impact. Mr. Dees addressed the drive access and suggested eliminating the second drive and creating a turn about in front of the building or making the existing drives on Mitchell Avenue right turn only, exit only. Mr. Dees noted that the parking has been an issue, the lot has been subdivided, and asked Council to give the issue more attention.

Ms. Amanda Monath, 705 Mitchell Avenue, indicated she was speaking for a group of concerned neighbors who have worked hard to reach a consensus on this issue. She asked Council to help the neighborhood find a win-win approach to preserve the character and sanctity for the neighborhood and the developers. She noted that fifty (50) children live on Mitchell Avenue and they seek help in protecting the gains made by the neighborhood. Ms. Monath stated that she appreciates the developer's rights as property owners but the building would bring commercial development to their doorsteps. Ms. Monath suggested the purchase of the property for development of a neighborhood park, or rezoned residential, and the building put on Lincolnton Road.

Ms. Dawn Isenburg, 721 Mitchell Avenue, where she said she has resided since 1976, described the formation of the Fulton Heights Neighborhood Association and reviewed the history of the neighborhood. Ms. Isenburg stated that neighbors had attended many Planning Board meetings over the years to fight development in their neighborhood. She asked Council to deny the proposed site plan to allow for further study.

Ms. Jacqueline Burke, 328 Mitchell Avenue, read a letter from Ms. Janice Truemper of 126 Mitchell Avenue. Ms. Truemper stated her opposition to the approval of the RoMed site plan.

Mayor Klutz noted that Council received a copy of the letter from Ms. Truemper as well as from her husband, Mr. Tim Truemper.

Mr. Doug Black, 629 Mitchell Avenue, stated that he and his wife have invested their life savings in their home. He told Council that he has helped circulate a petition concerning the development and he noted that many of the residents who signed the petition were unaware of the development plans. Mr. Black expressed concern about the increase in traffic and the change in the ambiance of the neighborhood. He added that he felt that an amicable solution could be reached.

Mr. John Burke, 328 Mitchell Avenue, asked Council to work with the neighborhood and the developers to create a win-win solution. He urged Council to leave a green buffer intact and asked Council to facilitate a meeting between the developers and the neighborhood to reach a win-win resolution.

Ms. Debbie Hurst, 725 Mitchell Avenue, stated that a group of concerned neighbors had attended every Planning Board meeting concerning this issue. She indicated they felt that this proposal was being hastily approved. She noted that thirty-five (35) neighbors opposed to the development plan had attended the Planning Board meeting. She stated that they did not understand why such an important decision was being made at such a frantic pace.

Mr. John Isenburg, 721 Mitchell Avenue, told Council that he grew up on Wiley Avenue and loved Fulton Heights. He added that he and his wife chose Fulton Heights for their home because it was a neighborhood and not a business area. He indicated that the RoMed owners have purchased a great deal of property on Lincolnton Road. He recommended business facing business rather than business facing residential.

Ms. Annie Cole interjected to Council that the property was properly zoned and they could choose to build one (1) building or five (5) and she felt one (1) building was more acceptable.

Mr. Andrew Pitner, 320 Mitchell Avenue, indicated that he and his family moved to Mitchell Avenue about two and a half (2-1/2) years ago. He expressed concern for the increase in traffic to Mitchell Avenue. He indicated that he respected the rights of the property owners since they have the proper zoning and he noted they seemed to accommodate the neighbors concerns, however, he felt additional accommodations could be made, especially with the traffic in the neighborhood. Mr. Pitner also urged Council to support a tunnel at Klumac Road. He asked for more consideration of alternatives for this development.

Mr. Rico Alessandrini told Council that he owned the property across from the development but people who lived three to five blocks away were complaining. He added that the property is under the law and the building should be accepted.

Mr. John Burke responded to Mr. Alessandrini and noted that Mr. Alessandrini said he is a property owner of RoMed and not a disinterested party. He indicated that there is a great risk in the neighborhood's property values going down.

Since no one else was present to speak to the issue, Mayor Klutz closed the public comments.

(C) Mayor Klutz stated that the strength of Salisbury is in its neighborhoods and she was very proud to see people who are so passionate about their neighborhood and their neighbors. She commented that the decision before Council today is not about encroachment and rezoning of a residential property because the property was zoned LOI. She urged Council to be fair to property owners who want to develop property the way it is properly zoned.

Mayor Klutz pointed out that as Council developed its Vision 2020 Plan, they worked hard at meeting the challenge of how to manage growth when business and residential begin to grow together. She stated that she felt Council has a responsibility to make sure the two are compatible. Mayor Klutz commented that the developers have worked hard with the Planning Board committee to make changes to the site plan. She reiterated that this was not a rezoning issue but a site plan approval.

Councilman Martin commented that he was impressed that the developer moved the building and changed the lighting in an effort to cooperate with the neighborhood. He added that when he asked if new businesses would be added, Dr. Watts had indicated that the pain clinic would be there full time and he did not see a tremendous increase in the number of cars it would generate.

Mayor Pro Tem Woodson said that the problem is that the people who are trying to build the building are trying to do the best they can do. He noted that he had been approached about trying to increase the number of jobs in the area. He commented that he did not feel the building would be a detriment to the neighborhood, adding he would be willing to delay the vote for a week or two if they felt a compromise could be reached.

Councilman Kennedy stated that Council has always been able to compromise between neighborhoods and business development. He noted that the developers have revised the site plan and are within their rights. He agreed with Mr. Woodson that if a committee would look at the issue, he would postpone the matter until another Council meeting.

Councilman Burgin stated that he had submitted for this project because he felt there were challenges that good architecture could solve. Mr. Burgin said that there will always be pressure to develop this piece of property and the neighbors need to be comfortable with that fact. Mr. Burgin added that the only resolution will be to reach a resolution. He observed that he felt this development group has worked very hard to reach a compromise. He added that the building was moved back to allow a green space and the building will align nicely with the street. Mr. Burgin indicated he felt the developers went beyond the call of duty. He stated he has seen proposed developments adjacent to residential that would do far more damage than this development would. Mr. Burgin stated that he felt the only compromise that could be reached at this point was the sale of the property to the neighbors, but he added that was never Council's choice and he would never put pressure on any property owner to sell property.

Mr. Burgin said that Council has had many site plans come before them and this is routine and has not been "railroaded". He indicated that during his six (6) years serving on Council they had only disapproved one (1) site plan. Mr. Burgin noted that given the effort the architect has made on the architectural style, and the efforts of the owners and developers to respect setbacks, reduce parking, move dumpsters, and reduce entries, they have done a good job. He agreed that there would be an impact on the neighborhood but feels the impact has been mitigated as well as Council could expect.

Mr. Burgin told Council that they need to be proactive in asking the engineering department to look at traffic patterns before the development begins, as well as after, if approved, to ensure the traffic patterns do not change significantly.

Mr. Woodson indicated that he agreed with Mr. Burgin that the architects and developers have done a great job, but Council needs to decide whether to delay approval until the next meeting to allow a committee to meet with the neighbors and developers. He added that he knows this is a tough decision because it is not a rezoning case.

Councilman Burgin noted that from where the developer began to where they are today he could not ask for any more. He indicated that the purchase of the property by the neighbors could be done at any time during the process, but does not think it is the business of Council to be promoting the sale of property.

Mr. Woodson asked about the suggestion that was made to put the building on Lincolnton Road. Mr. Furr responded that the

property on Lincolnton Road was zoned Residential and would have to be rezoned before it could be developed.

Mr. Martin indicated that the biggest concern seemed to be traffic and he added that he liked Mr. Burgin's idea to work on the traffic issue.

Mr. Burgin commented that the Vision 2020 Plan encourages connectivity and Mitchell Avenue is taking the brunt of the connectivity. He stated that Council needs to look at the problem to see if there are ways to help and to study the traffic flow before and after the development.

Mr. Kennedy commented that Council was drawing a line in the sand and he felt the revised site plan was one the neighbors felt they could live with.

(c) Thereupon Mr. Kennedy **moved** to approve the revised site plan as presented. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

-

SPECIAL USE PERMIT FOR MS. ROBIN OLIVER TO OPERATE A CHILD DAYCARE HOME

Special Use Permit – Robin Oliver

225 Independence Drive

(a) Mr. Hubert Furr, Development Services Manager, discussed with Council a request for a special use permit for Ms. Robin Oliver, 225 Independence Drive to operate a child daycare at her home. He reminded Council that they had amended the Ordinance to allow for a child daycare home in single family residential zoning as a special use permit. The property in question is zoned R-15 Single Family Residential and meets the 15,000 square foot lot requirement. The property is located in the Westwood Subdivision. Mr. Furr noted that a minimum of 100 square feet of outdoor play area per child is required with eight (8) children allowed per daycare home. He noted that the yard has much more than the required 800 square feet of outdoor play area.

Mr. Furr told Council that the staff technical review committee recommended to Planning Board that the special use permit be approved as submitted. There was some opposition at the Planning Board public hearing, he noted. Mr. Furr noted that this special use permit request is merely for the use of a daycare. He added that the issue was the use of the property; the State of North Carolina and the Department of Social Services determine the ability of the people to run a daycare. He reiterated that this was to approve the use of a daycare at this location and not to approve a person. Mr. Furr advised Council that the Planning Board approved the permit by a vote of 9-1.

Councilman Kennedy asked Mr. Furr to again explain the use and function of a special use permit.

Mr. Furr explained that a child daycare home allows a person to keep children in the home and a child daycare facility, which is larger, has to be in more commercial areas. He noted that when the ordinance was amended Council felt it was important to allow child day care in homes and were put into the ordinance to allow a child daycare home in single family zoning as a special use permit.

Councilman Burgin asked if the special use permit can be revoked. Mr. Furr replied that it could. Mr. Burgin asked if the property was sold, could the permit be transferred with the property. Mr. Furr responded that it could be passed on when property is sold.

(b) Mayor Klutz convened a public hearing, after due notice and advertisement thereof, on the request for a special use permit for a child daycare home at 225 Independence Drive.

Those speaking in **favor** or **opposition** to the request were:

Ms. Ginger Bradley, 105 Cedar Circle, told Council that she moved to Salisbury five (5) years ago and it has been hard to get to know people. She indicated that the homeowner has worked hard to get her home ready for a daycare. Ms. Bradley indicated that she did not want her children in public daycare because she likes the personal one on one, but she (Ms. Oliver) is a "woman after her own heart" and has her house ready for children.

Mayor Klutz asked Ms. Bradley if she is a neighbor to Ms. Oliver. Ms. Bradley stated that she is not in the neighborhood but is here to speak in favor of the permit.

Since no one else was present to speak concerning the permit request, Mayor Klutz closed the public hearing.

Mayor Klutz noted that Council received a letter from Ms. Kimberly Sanders alleging neglect and abuse, and while Council will not discuss that issue, the letter will be forwarded to the Department of Social Services and the State of North Carolina who licenses daycares.

Mayor Klutz recognized Ms. Robin Oliver, 225 Independence Drive, who told Council that Ms. Kimberly Sanders is her next door neighbor and her fiancé's daughter. She indicated that Social Services has been involved and has visited her home. She further told Council there is a dispute between Kimberly Sanders and Ms. Oliver's fiancé. Ms. Oliver says she has nothing to hide.

(c) Thereupon Mr. Woodson made a **motion** to approve the special use permit for a child daycare at 225 Independence Drive. Mr. Martin seconded the motion. Mayor Klutz noted that they had seen no significant neighborhood opposition. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

PUBLIC HEARING ON PROPOSED FY 2003-2004 CITY BUDGET

Mayor Kluttz opened the public hearing for comments on the proposed City budget for fiscal year 2003-2004. She noted that Council would begin their budget deliberations tomorrow, June 4th.

Those speaking concerning the proposed FY2003-2004 budget were:

Dr. Bryant Norman addressed Council concerning the Freedman's Cemetery Project. He thanked Council for their support of the project and indicated that the committee is approaching their goal of \$215,000. They have been awarded \$28,000 from the National Endowment of the Arts and a challenge grant from the Robertson Foundation. He indicated that they have until the end of 2003 to raise the matching funds of \$38,000 for the Robertson grant. Dr. Norman asked citizens to purchase a brick for \$200 each to be placed on the sidewalks of Liberty and Church Streets which is adjacent to Freedman's Cemetery. He indicated that they would like to have a letter of commitment for the full amount for the artist who has been contracted for the project and that Council would be the entity to provide the letter of commitment. He asked Council to increase their support for the Freedman's project and to loan the project \$38,000 to be repaid upon completion of the fundraising project. He thanked Council for their support.

Dr. Catrelia Hunter, Chair of the Freedman's Cemetery Project thanked Council.

Ms. Kay Wright Norman spoke to Council on behalf of the Learning Curves Child Development Center. She noted that they are a non-profit center for children from all over the County; however, 97% of the children they serve are from the City of Salisbury. Ms. Norman indicated that 98% of the children they serve are from single family homes and most live in poverty. She asked Council for \$10,000 to work with the children and their families to provide computers in the center and thanked Council for their support.

Mr. Mark Lewis, 136 Rugby Road, noted that the last three (3) years have been a challenge to balance the needs of the citizens versus the resources for the citizens. He noted that there is a lack of service in the Utility and Planning Departments because they do not have enough people to provide the service. He urged Council to stay the course and to approve any employees City Manager Treme indicates they need.

Since no one else was present to speak concerning the proposed budget, Mayor Kluttz closed the public hearing.

Mr. Treme advised Council that he had received a letter from Mr. Murray Edwards concerning a potential drainage project, along with a letter from Mr. Leon Bradshaw on Club Drive and he would add the requests to the list during the Council's budget workshop.

STREET CLOSING - 600 BLOCK OF NORTH ARLINGTON STREET

Councilman Kennedy informed Council that he had a financial interest in the block in question and asked that he be excused from the vote. Thereupon Mr. Burgin **moved** to excuse Mr. Kennedy from the vote. Mr. Woodson seconded the motion. Messrs. Burgin, Woodson, Martin and Ms. Kluttz voted AYE. (4-0).

(a) Ms. Wendy Brindle, Traffic Engineer, informed Council that on May 6, 2003 a resolution of intent was adopted to close the 600 block of North Arlington Street. All necessary notifications to inform the public have been made. Ms. Brindle indicated that it appears to staff that by closing the right-of-way no individual will be deprived of reasonable means of ingress or egress nor would it be contrary to the public interest.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the closing of the 600 block of North Arlington Street.

No one was present to speak in **favor** or **opposition** to the street closing; therefore Mayor Kluttz closed the public hearing.

(c) Thereupon Mr. Woodson made a **motion** to adopt a resolution accepting offers of dedication for the street. Mr. Martin seconded the motion. Messrs. Burgin, Martin, Woodson and Ms. Kluttz voted AYE. (4-0)

RESOLUTION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE OF THE 600 BLOCK OF NORTH ARLINGTON STREET.

(The above resolution is recorded in full in Resolution Book No. 11, under Chapter XII – Miscellaneous, at Page No. 24, and is known as Resolution No. 2003-25.)

(d) Thereupon Mr. Woodson **moved** to adopt an ORDER closing the 600 block of North Arlington Street. Mr. Martin seconded the motion. Messrs. Burgin, Martin, Woodson and Ms. Kluttz vote AYE. (4-0)

NORTH CAROLINA * BEFORE THE CITY COUNCIL OF

ROWAN COUNTY * THE CITY OF SALISBURY

*** NORTH CAROLINA**

IN THE MATTER OF *

*** ORDER CLOSING STREET**

CLOSING THE 600 BLOCK OF * PURSUANT TO GENERAL STATUE

NORTH ARLINGTON STREET * OR NORTH CAROLINA SECTION

*** 160A-299**

THIS CAUSE, coming on to be heard and being heard before the City Council of the City of Salisbury, Rowan County, North Carolina, at the regular meeting of said Council held on June 3rd at 4:00 p.m., in the City Office Building at 217 South Main Street, Salisbury, North Carolina, and it appearing to the Council that all persons, firms and corporations owning property adjoining the street described in the Petition filed in this cause are parties to this proceeding; and it further appearing that said street is not maintained by the Department of Transportation; and it further appearing that notice of this hearing was duly published in THE SALISBURY POST on May 9, May 16, May 23, and May 30, 2003.

And it further appearing to the Council and the Council finding as a fact, that the closing of the street, as described in the Petition filed in this cause, is not contrary to the public interest or the property rights of any individual, and that no individual owning property in the vicinity of said street or in the subdivision in which they are located will be deprived of reasonable means of ingress and egress to his property by the closing of said street; and it further appearing to this Council that the relief prayed in the Petition should be granted.

IT IS NOW, THEREFORE, ORDERED AND DECREED by the City Council of the City of Salisbury, Rowan County, North Carolina, pursuant to and in accordance with the authority vested in this Council by the General Statutes of North Carolina, Section 160A-299:

BEGINNING at an existing iron pin on the north east side of East Franklin Street and the north west side of North Arlington Street, the southern most corner of lot 24, thence with the line of lot 24 N 45 degrees 58' 13" E, 193.84' to an existing iron pin the north eastern corner of lot 24, thence a line crossing an alley N 45 degrees 58' 13" E, 13.39' to a new iron pin in the line of The Housing Authority of Salisbury, thence two lines with The Housing Authority of Salisbury, (1) S 44 degrees 01' 47" E, 50.00' to a new iron pin, (2) S 45 degrees 58' 13" W, 207.23' to a new iron pin in the north eastern margin of East Franklin Street, thence with said street, N 44 degrees 01' 47" W, 50.00' to the point and place of beginning and being 0.237 acres as shown on survey and map by Shulenburg Surveying Company, P.A. dated 4/21/03.

Be and the same is hereby forever closed.

This the 3rd day of June, 2003.

CITY COUNCIL OF THE CITY OF

SALISBURY, NORTH CAROLINA

BY: s/s Susan W. Kluttz

Mayor

s/s Myra B. Heard

City Clerk

ZONING TEXT AMENDMENT - OUTPARCELS - SECTION 4.02 OF THE ZONING ORDINANCE

(a) Mr. Harold Poole, Senior Planner, indicated that a request has been received from Mr. John Leatherman requesting a change in the definition of "outparcel" to allow the outparcel to have one or two buildings. Currently the ordinance states that only one is allowed. Mr. Poole indicated that staff has considered several solutions and determined that this was the best possible answer, maybe go ahead to allow one or two buildings on an "outparcel." Mr. Poole told Council that the Planning Board unanimously recommended approval. He stated that a courtesy hearing was held and no one spoke in opposition.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the proposed amendment concerning outparcels.

Since no one was present to speak in **favor** or in **opposition** to the amendment, Mayor Kluttz closed the public hearing.

Councilman Burgin indicated he was curious as to the motivation for the change because it appeared the outparcel would just need to be subdivided and group development approval sought.

Mr. Poole explained that the outparcel in question is located next to the State Farm Office in Crown Plaza and extends to Jake Alexander Boulevard. He explained that if the outparcel was subdivided it would create a parcel not along a public street, a landlocked parcel.

Mr. Burgin asked if they are creating any property users without access. Mr. Poole replied that they are not, but would be if the existing parcel were to be subdivided. Mr. Burgin indicated he did not want Council to create any user of property without access, and if the means of protecting that was by the definition of number of users per parcel, and it would not result in that risk, he has no objection. Mr. Poole responded he felt the use was primarily for a developer who wishes to rent an outparcel or a portion of an outparcel.

Mr. Burgin again stated he wanted to be sure Council is not creating a situation of a property user without access. Mr. Poole replied that a portion of the outparcel would be leased, not sold, in this situation. Mr. Burgin clarified that if a building was on the property it could not be subdivided. Mr. Poole answered that it would not be allowed because it would create a landlocked parcel.

(c) Thereupon Mr. Kennedy made a **motion** to adopt the ordinance amending Appendix B, Zoning, of the Code of Ordinances of the City of Salisbury, North Carolina, by amending a portion of Section 4.02 Definitions, by amending the definitions for "outparcel". Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, BY AMENDING A PORTION OF SECTION 4.02 DEFINITIONS, BY AMENDING THE DEFINITIONS FOR 'OUTPARCEL.'

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI - Zoning & Planning, at Page No. 26, and is known as Ordinance No. 2003-37.

REFUNDING PORTION OF GENERAL OBLIGATION BONDS

(a) Mr. John Sofley, Finance Director, informed Council that interest rates on government instruments has remarkably declined. He indicated that the City has four (4) outstanding bond issues that he feels Council should refund, which would generate approximately \$720,000 over the life of the bond, or \$40,000-50,000 per year. He added that the bonds were water and sewer related so the savings would be realized in the water and sewer fund.

He requested Council to authorize staff to refund the bonds setting a top amount allowed for the refunding, hold a public hearing, and then adopt a bond order. Mr. Sofley stated that he has a tentative bond sell date of July 22, 2003.

Mr. Sofley told Council if they wished to move forward, they need to approve a bond order resolution and to adopt a resolution setting a public hearing at the next regular meeting on June 17, 2003 at 4:00 p.m.

Councilman Burgin asked about the interest rate on the bonds. Mr. Sofley replied that he anticipates an interest rate range from 2% to 3.3% each.

Mayor Pro Tem Woodson asked why a public hearing was required for the bond order. Mr. Sofley explained that the City would have more bonds authorized outstanding than at present. He added that because they would have to buy back the outstanding bonds some would have a premium attached. He indicated that they may have to pay a 1-2% premium in order to buy back the bonds. The money left from the purchase will be put into fixed interest rate securities that match the redemption dates of the bonds.

Mr. Sofley stated that the City would have to pay less money in interest rates but would earn less money on the funds. The City will have to pay more to pay off, but the net dollars expended equals about \$40,000-50,000 savings per year.

Councilman Kennedy asked Mr. Sofley about the investors who initially purchased the bonds. Mr. Sofley answered that the investors will have an opportunity to bid on the new bonds. He noted that the City includes a provision on its bonds that states the City can call the bonds at any time after the stated date.

(b) RESOLUTION TO INTRODUCE BOND ORDER

Mayor Pro Tem Woodson moved adoption of a resolution to introduce the following bond order, that motion was seconded by Mr. Martin, and the bond order was read by title:

"BOND ORDER AUTHORIZING THE ISSUANCE OF \$13,000,000 REFUNDING BONDS OF THE CITY OF SALISBURY"

WHEREAS, the City of Salisbury (the "City") has issued Sanitary Sewer Bonds, Series 1989, dated July 1, 1989 (the "Sanitary Sewer Bonds, Series 1989"), a certain portion of which remain outstanding (the "Outstanding Sanitary Sewer Bonds, Series 1989"); and

WHEREAS, the County has issued Sanitary Sewer Bonds, Series 1992, dated January 1, 1992 (the "Sanitary Sewer Bonds, Series 1992"), a certain portion of which remain outstanding (the "Outstanding Sanitary Sewer Bonds, Series 1992"); and

WHEREAS, the County has issued General Obligation Refunding Bonds, Series 1993 dated November 1, 1993 (the "General Obligation Refunding Bonds, Series 1993"), a certain portion of which remain outstanding (the "Outstanding General Obligation Refunding Bonds, Series 1993"); and

WHEREAS, the County has issued Water and Sewer Bonds, Series 1995 dated November 1, 1995 (the "Water and Sewer Bonds, Series 1995"), a certain portion of which remain outstanding (the "Outstanding Water and Sewer Bonds, Series 1995"); and

WHEREAS, the City Council deems it advisable to refund all or a portion of the Outstanding Sanitary Sewer Bonds, Series 1989, Outstanding Sanitary Sewer Bonds, Series 1992, Outstanding General Obligation Refunding Bonds, Series 1993 and Outstanding Water and Sewer Bonds, Series 1995 (collectively referred to herein as the "Outstanding Bonds to be Refunded") pursuant to and in accordance with The Local Government Finance Act; and

WHEREAS, the Council has caused to be filed with the Secretary of the Local Government Commission of North Carolina an application for Commission approval of the bonds hereinafter described as required by The Local Government Finance Act, and the Secretary of the Commission has notified the Council that the application has been filed and accepted for submission to the Commission;

NOW, THEREFORE, BE IT ORDERED by the Council as follows:

Section 1. The City Council has ascertained and hereby determines that it is advisable to refund the Outstanding Bonds to be Refunded.

Section 2. To raise all or a portion of the money required to refund the Outstanding Bonds to be Refunded as set forth above and to pay expenses in connection therewith, bonds of the City are hereby authorized and shall be issued pursuant to The Local Government Finance Act of North Carolina. The maximum aggregate principal amount of bonds authorized by this bond order shall be \$13,000,000.

Section 3. Taxes sufficient to pay the principal of and interest on those bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the City's debt has been filed with the City Clerk and is open to public inspection.

Section 5. The bond order shall take effect upon its adoption.

The motion to introduce the above bond order was adopted by the following vote:

AYES: Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz

NAYS: None

(The above resolution is recorded in full in Resolution Book No. 11, under Chapter XII - Miscellaneous, at Page Nos. 25-26, and is known as Resolution No. 2003-26.)

(c) **RESOLUTION AUTHORIZING PUBLIC HEARING ON BOND ORDER**

Mayor Pro Tem Woodson moved the adoption of the following resolution, the motion was seconded by Mr. Martin, and the resolution was read by title:

WHEREAS, the bond order entitled "BOND ORDER AUTHORIZING THE ISSUANCE OF \$13,000,000 REFUNDING BONDS OF THE CITY OF SALISBURY" has been introduced at the meeting of the City Council of the City of Salisbury held on June 3, 2003, and the Council desires to provide for a public hearing thereon and the submission of a statement of debt in connection therewith as required by The Local Government Finance Act;

NOW, THEREFORE, BE IT RESOLVED by the Council as follows:

The public hearing upon that bond order shall be held in City Council Chambers, 217 South Main Street, Salisbury, North Carolina, at a meeting that begins at 4:00 P.M., June 17, 2003.

The City Clerk is hereby directed to cause a copy of the bond order to be published with a notice of the hearing in the form prescribed by law in a qualified newspaper no fewer than six days prior to the public hearing.

The City's Finance Director is hereby directed to file with the City Clerk prior to publication of the bond order with the notice of such public hearing, a statement setting forth the debt incurred or to be incurred, the appraised value of property subject to taxation by the City and the net debt of the City.

The motion was adopted by the following vote:

AYES: Burgin, Kennedy, Martin, Woodson, and Ms. Klutz

NAYS: None

(The above resolution is recorded in full in Resolution Book No. 11, under Chapter XII - Miscellaneous, at Page No. 27, and is known as Resolution No. 2003-27.)

SUBSTANCES TAXES

Ms. Barbara Fuller, Fiscal Analyst, presented Council with a budget ordinance amendment to appropriate \$2,000 in restricted controlled substances taxes.

Thereupon Mr. Kennedy **moved** to amend the 2002-2003 budget ordinance to appropriate the \$2,000. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0).

AN ORDINANCE AMENDING THE 2002-2003 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE RESTRICTED CONTROLLED SUBSTANCES TAXES.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter II -Administrative, at Page No. 19, and is known as Ordinance No. 2003-38.)

BUDGET ORDINANCE AMENDMENT - FY 2002-2003 - TO APPROPRIATE DONATION TO POLICE DEPARTMENT

Ms. Barbara Fuller, Fiscal Analyst, informed Council that a local financial institution donated \$1,000 to be used for the purchase of a VCR and photo enhancement software.

Thereupon Mr. Kennedy made a **motion** to amend the FY 2002-2003 budget ordinance to appropriate the \$1,000 for the Police Department. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

Councilman Burgin asked that Council send the financial institution a "thank you" letter for their donation.

AN ORDINANCE AMENDING THE 2002-2003 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE DONATION TO POLICE DEPARTMENT

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter II - Administrative, at Page No. 20, and is known as Ordinance No. 2003-39.)

AUTHORIZE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING IN SUPPORT OF THREE COUNTY REGIONAL GREENWAY SYSTEM

Mr. Kenny Roberts, Recreation Program Manager, informed Council that he and Keith Trawick have served as the staff liaisons to the county's Greenway Committee and asked Council to authorize the Mayor to sign a Memorandum of Understanding in support of a three-county regional Greenway System between Rowan County, Cabarrus County, Davidson County, City of Salisbury, Town of China Grove, Town of Landis, Town of Spencer, and the City of Kannapolis. He indicated that there was no financial commitment involved at this time.

Thereupon Mr. Woodson made a **motion** to authorize the Mayor to execute a Memorandum of Understanding for a three county regional Greenway System. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

RESIDENTIAL PARKING - SOUTH SIDE OF 300 BLOCK OF WEST FISHER STREET

Ms. Wendy Brindle, Traffic Engineer, indicated that a petition was received from property owners in the 300 block of West Fisher Street requesting that parking on the south side of this street be designated as residential parking by permit.

Staff has reviewed the request and found that it is consistent with the intent of the residential parking ordinance and is similar to requests approved by Council in the past. She noted that the petition was signed by four (4) of the five (5) property owners. The four (4) who signed the petition are on the south side of the street and the one (1) that did not sign, First Presbyterian Church, is located on the north side and is opposed.

Ms. Brindle indicated that representatives of the petitioner submitted two letters of support for the restrictions to be presented to Council.

Mayor Klutz noted that a representative from the church was not present but there was opposition. She asked if the property owners and apartment residents have additional parking. Ms. Brindle replied that one of the apartments does not have any off street parking and one has room for only one car.

Councilman Burgin commented that Council has in the past granted parking permits to citizens who are residents along properties being used by businesses for profit and who use the street as their parking lot. He recognized that the streets are public domain and Council has tried to protect those neighbors in that situation. Mr. Burgin reminded Council this is different because this is a non profit church that uses the spaces on a daily basis and has the right to do so. He added that he could not, in good conscious, support closing the opportunity for their use, and that this could set a precedent.

Councilman Martin agreed with Mr. Burgin adding that if the church is opposed to the request Council would be setting a bad precedent.

Mayor Klutz noted that when these petitions are received they ordinarily have 100% in favor of the request. She expressed her concern for the downtown churches and the parking problems they encounter.

Mr. Burgin commented that even churches not located downtown such as Milford Hills Methodist where members park along the street would be affected. He indicated that he recognizes the parking issue could be inconvenient but the churches generally use the parking spaces in small, narrow amounts of time and he feels they have that right.

Thereupon Mr. Burgin made a **motion** to deny the request. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

COMMITTEE REPORT - NEW REGULATIONS RELATING TO GROUP HOMES

Mayor Klutz reminded Council that this issue had been sent to a committee comprised of Councilmen Kennedy and Martin.

Councilman Kennedy reported that he and Mr. Martin met with owners of group homes and received their input on the Planning Board recommendations. They then met with staff, taking the input from the group home owners, as well as the Planning Board, to reach a compromise.

Mr. Joe Morris, Urban Resource Manager, gave a brief review of the process taken to develop Group Home regulations. The current regulations for Group Homes state:

- Family Care homes are permitted in all zoning classifications.
- Group Homes are permitted with restrictions in B-1, B-CS, B-2, B-RT, B-4, B-5, B-6, B-7, M-1, LLI, LLI-2, M-2 & PSP.
- Restrictions may include: valid license, serve up to 11 clients and not for treatment of substance abuse or contagious diseases.

Mr. Morris then reviewed the time line to date for the Group Home regulations.

- 90-day moratorium by Council 9-17-02
- Extension of Moratorium 12-17-02
- Committee Recommendations to Planning Board 2-25-03
- Courtesy Hearing 3-11-03
- Moratorium expires 3-17-03
- Recommendations to City Council 3-18-03
- Referred to committee, Mr. Kennedy & Mr. Martin 3-18-03
- Meeting with Group Home Operators 4-29-03
- Moratorium extended 5-16-03
- Report to Council 6-3-03

Mr. Morris noted that the recommendations to be made to Council today could be adopted or Council would need to extend the moratorium again. A map showing current group homes operating in Salisbury (based on information from September, 2002) was presented to Council. Mr. Morris noted that the map would be updated as they moved forward to show the exact location of both residential treatment facilities and supervised living facilities. Mr. Morris provided data on calls for service from the Police Department to the group homes as well as a map showing the intensity of the calls.

Mr. Morris indicated that Council had given a directive requesting a Planning Board study of group homes as they relate to current zoning regulations, state policies and federal regulations.

The objectives of the Planning Board committee were to:

- Make recommendations to mitigate the impact of Group Homes on police services, schools & neighborhoods through appropriate land use.
- Assure compliance of local ordinances with the Fair Housing Act.
- Demonstrate the community's ability meet social obligations.

Mr. Morris noted that concurrently Rowan County has extended its moratorium and created a task force to study the impact of group homes. The state has adopted Senate Bill 163, requiring reimbursement from home counties to host counties for educational expenses for group home residents. He stated that based on the information provided by the Division of Health and Human Services, Salisbury is exceeding its social responsibility at a rate of 2.3 times its fair share of residential treatment facilities.

Then, Mr. Morris reviewed a map showing an analysis using a recommendation of the Planning Board with a half mile separation. The map displayed a zone of concentration within the urban core of Salisbury, as well as on one on Stokes Ferry Road, that shows the location of residential treatment facilities in an area where no other residential treatment facility could be located based on the recommendations to be made today.

Mr. Morris informed Council that staff contemplated creating a map showing where the group homes could be located but the

homes can be placed anywhere within the City's zoning area with the exception of a small percentage of zoning areas, including LOI and B-7, and one other. Mr. Morris added that if group homes meets certain obligations, they could go anywhere in the City's extraterritorial zoning jurisdiction.

Mr. Morris noted that in developing the recommendations there were areas of agreement, areas of disagreement and areas of compromise between the Group Home owners and the Planning Board.

The Council Committee recommendations to Council are:

- Adopt new definitions for (1) Group Homes, (2) Residential Treatment Facilities, (3) Supervised Living Facilities, (4) physically disabled person, (5) developmentally disabled person, and
- (6) juvenile adjudicated as delinquent.

Mr. Morris noted that there was an area of disagreement between the Planning Board recommendation and Group Home operators with the Group Home operators suggesting the definition of Group Homes was not adequate. The definition is provided by the North Carolina General Statutes. After analysis, staff determined that as a City government they could not affect the General Statutes and must abide by them. However, Council does have the ability to adapt definitions so that they serve the public interest. Mr. Morris stated that the definition they have included in the Council Committee recommendation adequately addresses the public interest of the citizens of Salisbury.

- Allow supervised living facilities in R-8 and all accumulative districts with an administratively issued permit with no separation requirement.

The supervised living facilities are specifically for the developmentally disabled populations, Mr. Morris pointed out. He added that these individuals cannot be discriminated against, and the recommendation is to allow to the facilities to locate wherever they should choose.

- Impose the one-half (1/2) mile separation requirement for Residential Treatment Facilities.

Mr. Morris noted that this was an area of agreement between the Group Home operators and Planning Board recommendations.

- Limit Residential Treatment and Supervised Living facilities to no more than 6 clients.

Mr. Morris indicated that this area was again an area of agreement.

It was noted that the following recommendations deviate from the original Planning Board recommendation:

- First allow Level I, II & III Residential Treatment Facilities as defined by the NC Department of Health & Human Services as a special use in residential and certain other cumulative districts.

Mr. Morris indicated that this was an area of disagreement as the Group Home owners felt their clientele to be a protected class, but staff believes the Fair Housing Act specifically addresses the issue of reasonable accommodation. He added that their analysis indicates the City is meeting its social obligation and provides reasonable accommodation.

- Allow Level I, II, & III Residential Treatment Facilities as defined by the NC Department of Health and Human Services in B-1 and certain cumulative districts with no special use permit required.

Mr. Morris told Council that this was a compromise position drafted by the Council Committee. He explained that in the first provision a business operating for profit in a residential neighborhood must meet certain qualifications. In the second provision a business operating within a business district would not have to meet special qualifications.

- Prohibit Level IV & V Residential Treatment Facilities as defined by the NC Department of Health & Human Services in all zoning districts.

These are the lock-down facilities, Mr. Morris advised. He said the Group Home operators expressed opposition to this, and added that if an institution in the community feels this type of service should be provided, it can approach Council to ask for the provision to be eliminated. Mr. Morris stated that at this time it was not necessary that this type of service be provided.

The special use permit for Level I, II & III Residential Treatment Facilities, when proposed in residential districts, shall include the following:

- (1) A public notification and hearing process. Notification will be made to nearby property owners and affected school districts.
- (2) The special use permit shall be non-transferable and revocable with loss of state licensure.
- (3) The special use permit would expire immediately upon vacancy of the property and/or discontinuation of the use.

(4) The special use permit application would ascertain whether the applicant intends to provide treatment for juveniles adjudicated as delinquents.

Mr. Morris told Council that in the original recommendation by the Planning Board there was a requirement for an applicant to go to the school system to obtain information concerning the capacity of the schools to accommodate the student. He noted that the Committee felt the schools were obligated to provide capacity to any student who attends the school. The Committee felt the school should be notified but there was no obligation on behalf of the applicant to ascertain capacity at the school.

Finally, all residential treatment facilities shall meet the following conditions (whether in a residential neighborhood or business district) but are not limited to:

(1) one-half (½) mile separation from other Residential Treatment facilities.

(2) ability to obtain a license from the NC Department of Health and Human Services.

(3) demonstrate need based on empirical data provided by the applicant

Mr. Morris stated that there has been a tremendous amount of cooperation in this process. He added he wished the Group Home owners had been involved earlier in the process because they provided good information. Mr. Morris told Council he feels this was a good ordinance for Council to consider. He asked Council to consider adoption of the policies and ordinance or consider extending the moratorium.

Mayor Klutz commented that it was apparent a tremendous amount of work went into the recommendations by the Committee and staff and she commended them for their work.

Councilman Martin thanked Mr. Morris for his work on the recommendations.

Councilman Kennedy stated that this was a great deal of information and he felt it could be studied over and over. He expressed that he feels this was a good compromise from where they began.

Thereupon Mr. Kennedy made a **motion** to adopt the ordinance to amend the zoning as proposed by the Council Committee. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, BY AMENDING PORTIONS OF ARTICLE IV, DEFINITIONS, ARTICLE 7.10, SPECIAL USE PERMITS, AND ARTICLE VIII, USE REQUIREMENTS BY DISTRICT, IN ORDER TO PROVIDE REGULATIONS FOR CERTAIN TYPES OF GROUP HOMES AND OTHER SIMILAR FACILITIES.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI - Zoning & Planning, at Page Nos. 27-29, and is known as Ordinance No. 2003-40.)

STAFF REPORT ON CLEAR CUTTING BILL

Mr. Joe Morris, Urban Resource Manager, informed Council that last January a group of residents of Milford Hills approached Council expressing concerns regarding clear cutting of property adjacent to that neighborhood.

In response to that request Council adopted a resolution directing the Mayor to contact the City's state representative to request help by drafting a bill that would allow the City of Salisbury to adopt policies regarding clear cutting within the Salisbury planning jurisdiction. The request was sent to Representative Lorene Coates. Her staff responded to Mr. Morris explaining that there was already a bill in the Senate that addressed the concerns expressed in Council's resolution. Representative Coates' legislative staff recommended that Salisbury be added to the bill along with other communities who had also requested inclusion. It was indicated that the bill was on a fast track so Mr. Morris indicated he felt this would be the best approach.

Mr. Morris informed Council that the bill was presented to the legislature, but as it went through the Senate, Senator Brock was opposed and filed an amendment to exclude Salisbury from the clear cutting bill. The amendment passed 43-0, Mr. Morris explained.

Mr. Morris told Council that after speaking with the legislative staff today he learned there is a small window of opportunity for the City to be added back to the bill. In order for this to happen Council needs to contact the entire legislative delegation explaining its interest in the bill and that the City was responding to requests from citizens in its community. Mr. Morris added that the bill would be consistent with the Vision 2020 Plan policy relating to environmental preservation, as well as with the action plans by the regional sustainability project that Council has endorsed. Mr. Morris suggested traveling to Raleigh or to invite the legislative delegation to Salisbury to hear the concerns of the citizens.

Mayor Klutz commented that she felt it would be helpful for the legislators to hear the concerns Council has heard over the past year.

Councilman Burgin asked if Salisbury was the only city in Senator Brock's district that was removed from the bill. Mr. Morris responded that the bill was introduced for communities in Raleigh and other communities such as Spencer signed onto the bill. The amendment was exclusive to Salisbury.

Mr. Burgin indicated he has two (2) levels of offense, with one being if Senator Brock took Salisbury off of the bill but allowed other communities to remain. Mr. Morris clarified that Spencer was approved before Senator Brock took office.

Mr. Burgin stated his second level of offense was that Senator Brock needs to get on board concerning the environmental issues to be addressed by controlling the clear cuts. He indicated that Council is trying to control the clear cutting in a fair and organized way. Mr. Burgin added he felt the Senator has failed to understand what his constituents are trying to accomplish.

Mr. Morris noted that Senator Brock had two levels of concern. One that the bill did not come through his office, and second that there was not consensus in the community. Mr. Morris stated he felt this indicated someone from the community had contacted Senator Brock opposing the bill.

Mayor Kluttz told Council that she had spoken with Senator Brock the day of the vote and he indicated that he did not like the way the bill was presented legislatively, and also had been contacted by someone opposed to the bill. Mayor Kluttz added that Senator Brock did not speak with Council members to ask why Salisbury was seeking to be added to the bill. She added that he was adamant that he would not vote for it. Mayor Kluttz indicated she told Senator Brock that Council felt strongly about the issue and had dealt with it for over a year.

Mr. Morris stated that Senator Brock suggested the City might be considered for inclusion during the short summer session. However, the legislative staff indicated the City may not have the opportunity to be added until 2005.

Council agreed by consensus to work to meet with the legislative delegation to provide information.

SALISBURY GREENWAY - REVISED IMPLEMENTATION SCHEDULE

Mayor Kluttz explained to Council that she had traveled to Raleigh last week, along with Dan Mikkelson, Kenny Roberts and Dr. John Wear, chairman of the Greenway Committee. She indicated this was her first experience dealing with the North Carolina Department of Transportation concerning the Greenway Project.

The City representatives met with NCDOT representatives to request a substitution in an area where there was a problem with property acquisition. Mayor Kluttz stated she was alarmed by the response, which was that the City has had grant money totaling \$1,000,000 available to it for several years and was in danger of losing the money. She commented that the money has not been used because the City was delayed in property acquisitions. NCDOT representatives informed Mayor Kluttz that the City would have to convince them that they were serious about the greenway implementation and provide a schedule of implementation or possibly lose the money.

Mr. Dan Mikkelson, Director of Land Management and Development, reviewed the goals of City Council from their goals retreat that included implementation of the Greenway. Mr. Mikkelson reviewed the Greenways master plan and indicated there are four (4) Greenway projects for which NCDOT has set up funding.

Mr. Mikkelson noted that Grants Creek, Phase I is already in place and is one half (1/2) mile long. NCDOT provided \$239,200 for the project with the City contributing \$158,000 plus in-house planning design and construction administration. He added that staff has found they can do things well in-house, but need the time to commit to them.

In Grants Creek Greenway Phase 2, the City asked permission to change the original alignment where the segment began at Eagle Heights and extended to Meadowbrook, to start at the Crescent and extend to Meadowbrook. He commented on the problems encountered with property acquisition. Mr. Mikkelson noted the change would give the Crescent bicycle connectivity. He noted that NCDOT tentatively agreed to the change if the City showed a considerable commitment to getting the project underway. The revised alignment in Phase 2 will be approximately 3/4 mile long. NCDOT has committed \$300,000 for the project with the City contributing \$39,000 plus in-house planning and design and construction administration. The construction is scheduled to begin in Spring 2004.

Grants Creek Greenway Phase 3 will begin at Kelsey Scott Park, parallel Old Wilkesboro Road and then parallel Brenner Avenue. The section is approximately 1 mile long. NCDOT is willing to commit \$400,000 with the City contributing \$30,000 plus consultant planning and design, and in-house construction administration. Construction for Phase 3 is scheduled to begin in Spring 2004 and will be coordinated with Brenner Avenue improvements.

Mr. Mikkelson reviewed the Urban Hybrid cross section for Brenner Avenue and noted the curb, gutter, and sidewalk on the west side is scheduled for installation in Summer 2003. The curb, gutter, and greenway on the east side is scheduled for installation in Spring 2004 with resurfacing to Brenner Avenue also taking place in Spring 2004.

Grants Creek Phase 4 will fill in the gap from Kelsey-Scott Park to Catawba College. The Veterans Administration Hospital has committed to put in a paved trail across their property. The City will pick the trail back up on the far side and bring it back to Catawba College to tie back in to the previous phases. Phase 4 is approximately .9 miles. NCDOT has committed \$400,000 with the City contributing \$175,000 plus planning design, and construction administration. This schedule also includes the VA paved trail on their property. Construction is scheduled to begin Summer 2005.

In summary, Mr. Mikkelson noted that the amended schedule would have Phase 2 and 3 construction beginning in Spring 2004 with Phase 4 beginning in Summer 2005. Phases 3 and 4 may also require consultant designs. Staff recommends Council approve the revised schedule and authorize the Mayor to sign a letter transmitting the information to NCDOT.

Mayor Klutz stated she wanted Council to be aware that they are in jeopardy of losing \$1,000,000 that they may never be able to regain.

Mr. Burgin asked about hiring a design consultant and asked if staff has the ability to find the money necessary. Mr. Mikkelson responded that he did have a way to find the money for Phase 3.

Thereupon Mr. Woodson made a **motion** to approve the revised schedule. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0).

City Manager Treme informed Council that regarding the clear cutting issue, there have been plans for clean up in the Milford Hills area, but the wetness of the area has delayed the clean up process. He stated that staff was prepared to move forward to help the YMCA and the citizens but they do need dryer ground to bring in equipment.

-

COMMENTS FROM CITY MANAGER

(a) Planning Board Recommendations

Council received the Planning Board recommendations and comments from their May 27, 2003 meeting.

MAYOR'S ANNOUNCEMENTS

(a) Town Hall Day

Mayor Klutz reported that she, Mayor Pro Tem Woodson and Councilman Martin attended the Town Hall Day on May 21, 2003.

(b) Budget Workshop

Mayor Klutz announced that Council will hold a Budget Workshop on Wednesday, June 4, 2003, at 12:00 noon in the Council Chambers, as a continuation of this meeting.

RECESS MEETING

Thereupon Mr. Woodson **moved** to recess the meeting until June 4, 2003 at 12:00 noon. Mr. Burgin seconded the motion. Council unanimously agreed to recess the meeting. The meeting was recessed at 6:45 p.m.

Mayor

City Clerk